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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Conscientious objection to military service

Analytical report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted in accordance with Human Rights Council resolution 20/2, in which the Council requested the Office of the United Nations High Commissioner for Human Rights to prepare, in consultation with all States, relevant United Nations agencies, programmes and funds, intergovernmental and non-governmental organizations and national human rights institutions, a quadrennial analytical report on conscientious objection to military service, in particular on new developments, best practices and remaining challenges.

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I. Introduction

1. The Human Rights Council, in its resolution 20/2, requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare, in consultation with all States, relevant United Nations agencies, programmes and funds, intergovernmental and non-governmental organizations and national human rights institutions, a quadrennial analytical report on conscientious objection to military service, in particular on new developments, best practices and remaining challenges.

2. By notes verbales and letters dated 11 January 2017, OHCHR invited the various stakeholders to provide any relevant information pursuant to the request made in resolution 20/2. Contributions were received from 19 Member States, from all regions, six national human rights institutions and 18 non-governmental organizations. All the contributions will be available for public consultation on a web page on the OHCHR site;[1] the previous reports of the High Commissioner on conscientious objection to military service, including the previous analytical report of June 2013, will also be directly accessible from the site.

3. The present report outlines the international legal framework, with particular attention paid to developments since 2013 (sect. II), as well as State law and practice, both in terms of best practices (sect. III) and remaining challenges (sect. IV). Lastly, the report contains conclusions and recommendations concerning laws, policies and practices relating to conscientious objection to military service (sect. V).

II. International legal framework, in particular new developments

A. Right to conscientious objection to military service

4. The right to conscientious objection to military service is based on article 18 of the International Covenant on Civil and Political Rights, which guarantees the right to freedom of thought, conscience and religion or belief. This right includes freedom to have or to adopt a religion or belief of one's choice, and freedom, either individually or in community with others and in public or private, to manifest one's religion or belief in worship, observance, practice and teaching. While the Covenant does not explicitly refer to a right to conscientious objection, in 1993 the Human Rights Committee stated that such a right could be derived from article 18, inasmuch as the obligation to use lethal force might seriously conflict with the freedom of conscience and the right to manifest one's religion or belief.[2]

5. In its jurisprudence adopted subsequent to the issuance of general comment No. 22 (1993), the Human Rights Committee found a right to conscientious objection in a series of Views on individual communications.[3] In *Jong-nam Kim et al. v. Republic of Korea*, the Committee reiterated that the right to conscientious objection to military service was inherent to the right to freedom of thought, conscience and religion, entitling any individual to exemption from compulsory military service if the latter could not be reconciled with the individual's religion or beliefs.[4] Since this right must not be impaired by coercion, the majority of the Committee members held that repression of the refusal to be drafted for compulsory military service, exercised against persons whose conscience or religion prohibited the use of arms, was incompatible with the absolutely protected right to hold a

[1] See www.ohchr.org/EN/Issues/Pages/ListofIssues.aspx.

[2] See general comment No. 22 (1993) on the right to freedom of thought, conscience and religion, para. 11.

[3] For an overview of individual communications relating to conscientious objection issued up to 2012, see A/HRC/23/22, paras. 8-13 and *Conscientious Objection to Military Service* (United Nations publication, Sales No. E.12.XIV.3).

[4] See communication No. 1786/2008, Views adopted on 25 October 2012, para. 7.4.

religion or belief (*forum internum*) pursuant to article 18 (1) of the Covenant.[5] However, four Committee members favoured in their concurring individual opinions the Committee's earlier approach, which had treated conscientious objection as an instance of manifestation of belief in practice (*forum externum*), and when considering article 18 (3), those Committee members concluded that the State party had not provided a sufficient justification for denying the right of conscientious objection.[6] Furthermore, the Special Rapporteur on freedom of religion or belief and the Working Group on Arbitrary Detention also continue to view conscientious objection to military service as a manifestation of one's religion or belief.[7]

6. In the case of *Young-kwan Kim et al. v. Republic of Korea*, the Human Rights Committee in 2014 found a violation of article 18 (1) of the Covenant, and also held that imprisoning the 50 Jehovah's Witnesses concerned as punishment for refusing military service amounted to arbitrary detention under article 9. In that context, the Committee noted in paragraph 7.5 of those Views that just as detention as punishment for the legitimate exercise of the right to freedom of expression, as guaranteed by article 19 of the Covenant, was arbitrary, so was detention as punishment for legitimate exercise of freedom of religion and conscience, as guaranteed by article 18 of the Covenant.

7. In 2015 and 2016, the Human Rights Committee adopted Views on 10 individual communications concerning conscientious objectors, finding, inter alia, violations of their right to be treated with humanity and with respect for the inherent dignity of the human person under article 10 of the Covenant and of the authors' freedom of thought, conscience and religion.[8] The Committee also recalled that the fundamental character of the freedoms enshrined in article 18 (1) of the Covenant was reflected in the fact that the provision could not be derogated from, even in time of public emergency, as stated in article 4 (2) of the Covenant.

8. In concluding observations adopted in 2013 and 2014, the Human Rights Committee reiterated that domestic laws should provide for conscientious objections in a manner consistent with articles 18 and 26 of the Covenant, bearing in mind that article 18 also protected freedom of conscience of non-believers.[9] The Committee also stressed that alternative service arrangements should be accessible to all conscientious objectors without discrimination as to the nature of the beliefs (religious or non-religious beliefs grounded in conscience) justifying the objection.[10] The terms "religion" and "belief" are to be broadly interpreted, since article 18 of the Covenant protects theistic, non-theistic and atheistic

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[5] Ibid., para. 7.5, and communication Nos. 1853/2008 and 1854/2008, *Atasoy and Sarkut v. Turkey*, Views adopted on 29 March 2012, appendix II ("The right to refuse to kill must be accepted completely.").

[6] See *Jong-nam Kim et al. v. Republic of Korea*, appendices II-IV. See also communications No. 2179/2012, *Young-kwan Kim et al.*, Views adopted on 15 October 2014, appendix I; No. 2218/2012, *Abdullayev v. Turkmenistan*, Views adopted on 25 March 2015, appendices I and II; No. 2221/2012, *Mahmud Hudaybergenov v. Turkmenistan*, Views adopted on 29 October 2015, appendix; No. 2222/2012, *Ahmet Hudaybergenov v. Turkmenistan*, Views adopted on 29 October 2015, appendix; No. 2223/2012, *Japparov v. Turkmenistan*, Views adopted on 29 October 2015, appendix; No. 2219/2012, *Nasyrlayev v. Turkmenistan*, Views adopted on 15 July 2016, annex; No. 2220/2012, *Aminov v. Turkmenistan*, Views adopted on 14 July 2016, annex; No. 2224/2012, *Matyakubov v. Turkmenistan*, Views adopted on 14 July 2016, annex; No. 2225/2012, *Nurjanov v. Turkmenistan*, Views adopted on 15 July 2016, annexes I and II; and No. 2226/2012, *Uchetov v. Turkmenistan*, Views adopted on 15 July 2016, annex.

[7] See A/HRC/7/10/Add.2, paras. 46 and 56; A/HRC/10/8/Add.4, para. 51; A/HRC/10/21/Add.1, pp. 144-145; A/HRC/19/60/Add.2, para. 54; A/HRC/23/51, p. 28; A/HRC/28/66/Add.2, para. 63; Working Group on Arbitrary Detention opinion No. 42/2015, para. 42; Heiner Bielefeldt, Nazila Ghanea and Michael Wiener, *Freedom of Religion or Belief: An International Law Commentary* (Oxford University Press, 2016), pp. 265-275 and 288-291.

[8] *Abdullayev v. Turkmenistan*, *Mahmud Hudaybergenov v. Turkmenistan*, *Ahmet Hudaybergenov v. Turkmenistan*, *Japparov v. Turkmenistan*, *Nasyrlayev v. Turkmenistan*, *Aminov v. Turkmenistan*, *Matyakubov v. Turkmenistan*, *Nurjanov v. Turkmenistan*, *Uchetov v. Turkmenistan* and communication No. 2227/2012, *Yegenduryyew v. Turkmenistan*, Views adopted on 14 July 2016.

[9] See, for example, CCPR/C/KGZ/CO/2, para. 23.

[10] See CCPR/C/UKR/CO/7, para. 19.

beliefs, as well as the right not to profess any religion or belief, and its application is not limited to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.[11] Therefore, a State would be in violation of article 18 of the Covenant if it recognized the right to conscientious objection only for members of registered religious organizations whose teaching prohibits the use of arms.[12]

9. Some States that have not ratified the Covenant do not recognize the universal applicability of the right to conscientious objection to military service. For example, Singapore reiterated in its contribution to the present report that Human Rights Council resolution 20/2 went beyond what was prescribed in international law and applicable human rights instruments. It also indicated that article 29 of the Universal Declaration of Human Rights recognized that the exercise of the rights and freedoms of an individual was subject to limitations to meet the requirements of public order and the general welfare of the society. Singapore further stated that national defence was a fundamental sovereign right under international law; where individual beliefs or actions ran counter to such a right, the right of a State to preserve and maintain national security must prevail.[13] Cuba, which has signed but not ratified the Covenant, considered in its contribution that there were no international human rights instruments that established a right to conscientious objection to military service, which should be understood as a notion based on the interpretations and general comments of the Human Rights Committee.

10. In a series of resolutions that were adopted without a vote, both the Human Rights Council and the Commission on Human Rights recognized the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights.[14]

11. At the regional level, the Advocate General at the Court of Justice of the European Union, in an opinion delivered in 2014, highlighted that the Charter of Fundamental Rights of the European Union in its article 10 (2) identified and explicitly recognized the right to conscientious objection, in accordance with the national laws governing the exercise of that right.[15] In 2016, the European Court of Human Rights found a violation of freedom of thought, conscience and religion in a case where the interview of a conscientious objector by the relevant special board had taken place in conditions that did not guarantee procedural efficiency and the equal representation required by domestic law.[16] Furthermore, the Ibero-American Convention on the Rights of Youth, in its article 12 (1), provides that young people have the right to conscientious objection to obligatory military service.[17]

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[11] See general comment No. 22, para. 2.

[12] See CCPR/C/KGZ/CO/2, para. 23.

[13] See also A/HRC/23/G/6, annex; A/HRC/23/22, para. 15; E/CN.4/2006/51, para. 18; E/CN.4/2002/188, annex.

[14] See Council resolutions 24/17 and 20/2, and Commission on Human Rights resolutions 2004/35, 2002/45, 2000/34, 1998/77, 1995/83, 1993/84, 1991/65 and 1989/59. The first related Commission resolution, 1987/46, was adopted by a vote of 26 in favour, 2 against and 14 abstentions.

[15] See Court of Justice of the European Union, case C-472/13, *Shepherd v. Bundesrepublik Deutschland*, opinion of Advocate General Sharpston delivered on 11 November 2014, para. 52.

[16] European Court of Human Rights, *Papavasilakis v. Greece*, application No. 66899/14, judgement of 15 September 2016. For an overview of regional jurisprudence see A/HRC/23/22, paras. 16-24, and Ozgür Heval Çınar, *Conscientious Objection to Military Service in International Human Rights Law* (Palgrave Macmillan, 2013), pp. 95-156.

[17] See the regional overview by Ignacio Perclló in *Convención Iberoamericana de Derechos de los Jóvenes: Balance y reflexiones — a cinco años de su entrada en vigor*, pp. 56-60. Available at www.oij.org/file_upload/publicationsItems/document/20130114165345_51.pdf.

B. Right of serving members of the armed forces, including conscripts and volunteers, to make claims of conscientious objection to military service

12. The Human Rights Council and, previously, the Commission on Human Rights, have repeatedly pointed out that persons performing military service may develop conscientious objections, and affirmed the importance of the availability of information about the right to conscientious objection to military service, and the means of acquiring conscientious objector status, for all persons affected by military service.[18] In its resolution 24/17, the Council acknowledged that an increasing number of States recognized conscientious objection to military service not only for conscripts but also for those serving voluntarily, and encouraged States to allow applications for conscientious objection prior to, during and after military service, including reserve duties.

13. The Special Rapporteur on freedom of religion or belief reiterated in observations on communications and mission reports that conscientious objection may develop over time, and even after a person has already participated in military training or activities.[19] Three special procedure mandate holders sent a joint urgent appeal concerning a conscientious objector who had left the army without authorization following her decision that she could no longer participate in the war in Iraq or any other conflict for moral reasons.[20] The Human Rights Committee had recommended that States parties ensure that the law clearly stipulates that individuals have the right to conscientious objection to military service, which they should be able to exercise before the commencement of military service and at any stage during military service.[21]

14. At the level of the European Union, the Advocate General at the Court of Justice stressed that the manner in which the conscientious objector was recruited was irrelevant, since the wording "refusal to perform military service" in Council Directive 2004/83/EC[22] encompassed anyone in military service, both conscripts and enlisted recruits, and that all military personnel were covered, including logistical or support personnel.[23] The Court of Justice ruled in 2015 that it did not appear that the measures incurred by a soldier because of his refusal to perform military service, such as the imposition of a prison sentence or discharge from the army, might be considered, having regard to the legitimate exercise, by that State, of its right to maintain an armed force, so disproportionate or discriminatory as to amount to acts of persecution; however, it was for the national authorities to ascertain whether that was indeed the case.[24]

C. Selective conscientious objection

15. In its Guidelines on International Protection No. 10, issued in December 2013, the Office of the United Nations High Commissioner for Refugees (UNHCR) stressed that the right to conscientious objection also applied to partial or selective objectors.[25] Such objectors believe that the use of force is justified in some circumstances but not in others and that therefore it is necessary to object in those other cases, whereas pacifists object to all use of armed force or participation in all wars. The General Assembly implicitly recognized one type of selective objection in its resolution 33/165, in which it called upon Member States to grant asylum or safe transit to another State to persons compelled to leave

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[18] Council resolution 24/17 and Commission resolutions 1998/77, 1995/83 and 1993/84.

[19] See E/CN.4/2006/5/Add.1, para. 139; A/HRC/19/60/Add.1, para. 56; A/HRC/22/51/Add.1, para. 69.

[20] See A/HRC/23/51, p. 28.

[21] See CCPR/C/KAZ/CO/1, para. 23; CCPR/C/CHL/CO/5, para. 13; CCPR/C/SVK/CO/3, para. 15.

[22] Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

[23] See *Shepherd v. Bundesrepublik Deutschland*, opinion of Advocate General Sharpston, paras. 32 and 35.

[24] See case C-472/13, *Shepherd v. Bundesrepublik Deutschland*, judgment of the Second Chamber of 26 February 2015, para. 57.

[25] See paras. 3 and 11 of the Guidelines.

their country of nationality solely because of a conscientious objection to assisting in the enforcement of apartheid through service in military or police forces. The Working Group on Arbitrary Detention and the Special Rapporteur on freedom of religion or belief have also taken up cases of selective conscientious objectors.[26]

D. Decision-making process for applications for conscientious objector status

16. In their resolutions, the Human Rights Council and, previously, the Commission on Human Rights, have called upon States that do not accept claims of conscientious objection to military service as valid without inquiry to establish independent and impartial decision-making bodies with the task of determining whether a conscientious objection to military service is genuinely held in a specific case.[27] In those resolutions and in general comment No. 22 of the Human Rights Committee, it was stressed that there should be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs.

17. The Special Rapporteur on freedom of religion or belief has also provided guidance on the required institutional and procedural safeguards for conscientious objectors. The decision concerning their status should, when possible, be made by an impartial tribunal set up for that purpose or by a regular civilian court, with the application of all the legal safeguards provided for in international human rights instruments. There should always be a right to appeal to an independent, civilian judicial body. The decision-making body should be entirely separate from the military authorities, and the conscientious objector should be granted a hearing, be entitled to legal representation and be able to call relevant witnesses.[28]

E. Prohibition of repeated trial or punishment of conscientious objectors

18. The Human Rights Council has stressed that repeated punishment of conscientious objectors for refusing a renewed order to serve in the military may amount to punishment for the same crime, in breach of the legal principle *ne bis in idem*.[29] The Working Group on Arbitrary Detention and the Special Rapporteur on freedom of religion or belief also have held that repeated incarceration of conscientious objectors violated article 14 (7) of the Covenant.[30]

19. In its Views on five individual communications, adopted in 2015 and 2016, the Human Rights Committee found violations of freedom of thought, conscience and religion and of the double jeopardy principle, since the authors of the communications had been tried and punished twice under the same provision of the Turkmen Criminal Code on account of the fact that they had objected to, and refused to perform, compulsory military service.[31]

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[26] E/CN.4/2005/6/Add.1, p. 18; A/HRC/23/51, p. 28.

[27] Commission resolution 1998/77; Council resolution 24/17. See also Human Rights Committee general comment No. 22, para. 11.

[28] See E/CN.4/1992/52, para. 185; A/HRC/6/5, para. 22; A/HRC/19/60/Add.1, para. 56 and A/HRC/22/51/Add.1, para. 69. See also CCPR/C/ISR/CO/4, para. 23.

[29] Council resolution 24/17. See also Human Rights Committee general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 55; CCPR/C/GRC/CO/2, paras. 37-38.

[30] E/CN.4/2001/14/Add.1, pp. 54-55; E/CN.4/2005/6/Add.1, p. 22; A/HRC/10/8/Add.4, paras. 50 and 68; A/HRC/16/53/Add.1, para. 391.

[31] See *Abdullayev v. Turkmenistan*, *Nasyrlayev v. Turkmenistan*, *Aminov v. Turkmenistan*, *Matyakubov v. Turkmenistan* and *Nurjanov v. Turkmenistan*.

F. Alternative service

20. States may, if they so wish, establish alternative service in place of compulsory military service, which is also recognized in article 8 (3) (c) (ii) of the Covenant, which provides that any national service required by law of conscientious objectors is not to be included within the meaning of the terms forced or compulsory labour. However, there is no requirement under international law for States to establish such a system, and they can simply excuse conscientious objectors from military service with no further action required from such persons.

21. Furthermore, the Human Rights Council and, previously, the Commission on Human Rights, set out criteria for alternative service, urging States to provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive character.[32] The Human Rights Committee has provided examples of conditions for alternative service that are "punitive in nature", including the requirement to perform such services outside places of permanent residence, the receipt of low salaries, which are below the subsistence level for those who are assigned to work in social organizations, and the restrictions in freedom of movement for the persons concerned.[33] Moreover, States need to ensure accessibility and non-discrimination when providing any alternative to military service, which is problematic, for example when an exemption fee can be paid instead of doing military service,[34] thus discriminating against those conscientious objectors who cannot afford to pay the fee.

22. Under international human rights law, there are no strict time limits for the permissible duration of alternative service. However, any longer duration in comparison to military service may be discriminatory if the additional time for alternative service is not based on reasonable and objective criteria, such as the nature of the specific service concerned or the need for a special training in order to accomplish that service.[35] The Human Rights Committee and the Special Rapporteur on freedom of religion or belief have recommended that States reduce the length of alternative civilian service to that of military service or at least to reduce the difference of their duration.[36]

23. With regard to time limits for applying for conscientious objector status, the Special Rapporteur on freedom of religion or belief emphasized in two mission reports that conscientious objection might develop over time, even after a person had already participated in military training or activities, and thus strict deadlines should be avoided.[37]

G. Claims to refugee status

24. Pursuant to article 14 of the Universal Declaration of Human Rights, everyone has the right to seek and to enjoy asylum from persecution. The Human Rights Council and, previously, the Commission on Human Rights, encouraged States, subject to the circumstances of the individual case meeting the other requirements of the definition of a refugee as set out in the Convention relating to the Status of Refugees of 1951 and the Protocol thereto of 1967, to consider granting asylum to those conscientious objectors to military service who have a well-founded fear of persecution in their country of origin

[32] Council resolution 24/17; Commission resolution 1998/77. The Human Rights Committee has recommended providing for alternative service of a civilian nature outside the military sphere and not under military command for conscientious objectors (see CCPR/C/TKM/CO/2, para. 41).

[33] See CCPR/C/RUS/CO/6 and Corr.1, para. 23.

[34] See CCPR/C/MNG/CO/5, para. 23.

[35] See Human Rights Committee communication No. 666/1995, *Foin v. France*, Views adopted on 3 November 1999, para. 10.3.

[36] See CCPR/CO/79/RUS, para. 17; A/56/253, annex, para. 28.

[37] See A/HRC/19/60/Add.1, para. 56; A/HRC/22/51/Add.1, para. 69.

owing to their refusal to perform military service when there is no provision, or no adequate provision, for conscientious objection to military service.[38]

25. The Guidelines on International Protection No. 10 issued by UNHCR in 2013 replace its earlier position on certain types of draft evasion (issued in 1991) and provide legal interpretive guidance for governments, legal practitioners, decision makers, the judiciary and UNHCR staff carrying out the determination of mandate refugee status. The guidelines outline five common types of claims: (a) objection to State military service for reasons of conscience; (b) objection to military service in conflict contrary to the basic rules of human conduct; (c) conditions of State military service; (d) forced recruitment and/or conditions of service in non-State armed groups; and (e) unlawful child recruitment.[39]

26. In paragraph 9.3 of its Views on communication No. 2007/2010, *X v. Denmark*, adopted in 2014, the Human Rights Committee referred to credible sources indicating that draft evaders risked serious ill-treatment upon repatriation to Eritrea and noted the author's assertion that he would have to refuse to undertake military service on the basis of his conscience. Since the Committee held that his deportation from Denmark to Eritrea, if implemented, would constitute a violation of article 7 of the Covenant (prohibition of torture, cruel, inhuman or degrading treatment or punishment), it did not further examine his claims under article 18.

III. Best practices

A. Alternative service

27. In its resolution 24/17, the Human Rights Council welcomed initiatives to make information about the right to conscientious objection to military service, and the means of acquiring conscientious objector status, widely available to all persons affected by military service. In that connection, one contribution for the present report referred to Austria, where the necessary forms for applying for recognition as a conscientious objector could be found on the website regarding obligatory military service.[40]

28. As noted in another contribution, Norway has suspended alternative service for conscientious objectors, who are simply exempted from military service.[41] Another example of best practice was the non-punitive length of alternative service in Denmark (and before the suspension of conscription also in Albania, Germany, Italy and Slovenia), where the normal durations of military and alternative service had been made equal.

29. In 2013, following several judgments of the European Court of Human Rights, Armenia adopted amendments to its law on alternative service, as well as enabling regulations, which has led to the release of imprisoned conscientious objectors in that country. As of February 2017, more than 250 Jehovah's Witnesses had served alternative service in Armenia. According to one contribution, all parties, including the directors of the alternative civilian service locations, are highly satisfied with the outcome of this change.[42]

B. Recognition of the right to conscientious objection to military service for conscripts and those serving voluntarily

30. The Law on service in the armed forces of Bosnia and Herzegovina provides that persons contracting to serve in the armed forces may terminate their contract prior to the date mentioned in the contract. Each year a number of persons, including those who no

[38] Council resolution 24/17; see also Commission on Human Rights resolution 1998/77.
[39] See paragraphs 17-41 of the Guidelines.
[40] Contribution from the International Fellowship of Reconciliation.
[41] Contribution from War Resisters' International.
[42] Contribution from the Office of the General Counsel of Jehovah's Witnesses.

longer want to serve because of conscientious objection, reportedly terminate their contracts.[43]

31. In Slovenia, article 38 of the Military Service Act explicitly provides that the right to conscientious objection to military service may also be exercised by a military conscript during and after the completed military service in accordance with the Act.[44]

C. Applications during mobilizations and total objection to military service

32. In its concluding observations on the sixth periodic report of Finland, adopted in July 2013, the Human Rights Committee welcomed the legislative changes allowing for applications for non-military service during mobilizations and serious disturbances, and the fact that total objectors could be exempted from unconditional imprisonment.[45] The Non-Military Service Act in Finland contains provisions on the processing of non-military service applications in special conditions, including during serious disturbances to normal conditions and during mobilization. Pursuant to the Act on monitoring sentences (No. 330/2011), a monitoring sentence may be imposed instead of unconditional imprisonment, and enables electronically supervised home arrest instead of a prison term for total objectors declining both military and non-military service.[46]

33. With regard to Ukraine, one contribution referred to a judgment of 23 June 2015 of the High Specialized Court for Civil and Criminal Cases, which was not subject to appeal, applying the jurisprudence of the European Court of Human Rights in the case of *Bayatyan v. Armenia* and affirming that the rights of conscientious objectors are protected even if a country mobilizes for armed conflict and not just when there are routine call-ups for military service.[47]

D. Fair, independent and impartial procedures to consider applications for conscientious objection to military service; non-discrimination between conscientious objectors

34. In its resolution 24/17, the Human Rights Council welcomed the fact that some States accepted claims of conscientious objection to military service as valid without inquiry. One contribution highlighted that in Finland (and in Germany before the abolition of conscription) an application bearing a declaration of conscientious objection following the accepted format would automatically lead to the recognition of a claim of conscientious objection.[48]

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[43] Contribution from the ombudspersons of Bosnia and Herzegovina.

[44] Contribution from Slovenia.

[45] See CCPR/C/FIN/CO/6, para. 14.

[46] See CCPR/C/FIN/6, paras. 30 and 153; International Fellowship of Reconciliation and Conscience and Peace Tax International submission to the Human Rights Committee at its 108th session, available from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGO%2fFIN%2f14402&Lang=en.

[47] Contribution from the Office of the General Counsel of Jehovah's Witnesses.

[48] Contribution from the International Fellowship of Reconciliation.

IV. Remaining challenges

A. Lack of recognition or implementation of the right to conscientious objection to military service and alternative service; repeated trial or punishment

35. In its concluding observations on the fourth periodic report of Azerbaijan, adopted in November 2016, the Human Rights Committee recommended that Azerbaijan adopt without delay the legislation necessary to give effect in practice to the constitutionally recognized right to conscientious objection to military service, without limitation on the category of conscientiously held beliefs, and that it provide for alternative service of a civilian nature for conscientious objectors and repeal all sanctions against them.[49]

36. Since there is no alternative civilian service in the Plurinational State of Bolivia, the Human Rights Committee recommended, in its concluding observations of October 2013, that the State promulgate legal provisions that recognize the right to conscientious objection to military service and establish an alternative to military service that is accessible to all conscientious objectors and is not punitive or discriminatory in terms of its nature, cost or duration.[50]

37. In November 2016, the same Committee welcomed the decisions of the Constitutional Court of Colombia in which the Court concluded that the practice of indiscriminate round-ups with the aim of identifying young persons who had failed to resolve their military status and taking them to assembly points entailed carrying out arbitrary arrests (judgments No. C-879 of 2011 and No. T-455 of 2014). While Colombia had asserted that the practice did not take place, the Committee was concerned by reports of recent round-ups and recommended that Colombia adopt stronger measures to ensure that no one is detained arbitrarily, particularly for the purpose of military recruitment, by, inter alia, improving the training provided to members of the security forces; that all allegations of arbitrary detention are investigated promptly, thoroughly and impartially; and that the perpetrators are prosecuted and punished.[51]

38. In its concluding observations of February 2015 on the fourth and fifth periodic reports of Eritrea, the Committee on the Elimination of Discrimination against Women urged the State party to discontinue the indefinite period of national service and the forced enrolment at the Sawa Military Training Centre, reduce the national service obligation to the original 18 months, legally recognize the right to conscientious objection and ensure that women who have completed their service are immediately demobilized.[52] In its report published in May 2016, the commission of inquiry on human rights in Eritrea noted that the military/national service programme had an open-ended and arbitrary duration, which routinely exceeded the 18 months provided for in a decree issued in 1995, frequently by more than a decade, which was not justified in the commission's view.[53]

39. In July 2013, the Human Rights Committee reiterated its concerns to Finland that the preferential treatment accorded to Jehovah's Witnesses had not been extended to other groups of conscientious objectors and recommended that Finland fully acknowledge the right to conscientious objection.[54]

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[49] See CCPR/C/AZE/CO/4, para. 35.

[50] See CCPR/C/BOL/CO/3, para. 21. See also the contribution from the Ombudsman's Office of the Plurinational State of Bolivia.

[51] See CCPR/C/COL/CO/7, paras. 34-35. See also the contributions from Colombia and the Ombudsman's Office of Colombia.

[52] See CEDAW/C/ERI/CO/5, para. 9.

[53] See A/HRC/32/47, paras. 35 and 67. See also the contribution from the Office of the General Counsel of Jehovah's Witnesses.

[54] See CCPR/C/FIN/CO/6, para. 14. See also the contribution from the Finnish Union of Conscientious Objectors.

40. In July 2016, the same Committee noted that Kazakhstan had failed to review, as previously recommended, its legislation in order to recognize a person's right to conscientious objection to military service and to provide for alternative military service. Kazakhstan should ensure the legal recognition of conscientious objection to military service, and provide for alternative service of a civilian nature for conscientious objectors.[55]

41. The same Committee reiterated to Kyrgyzstan in March 2014 its previous concerns that conscientious objection to military service was limited only to members of registered religious organizations whose teaching prohibited the use of arms. Kyrgyzstan should ensure that any legal amendments provide for conscientious objections in a manner consistent with articles 18 and 26 of the Covenant, bearing in mind that article 18 also protects freedom of conscience of non-believers.[56]

42. In concluding observations adopted in November 2015, the Human Rights Committee expressed concern at the failure of the Republic of Korea to implement the Committee's Views, notably in the numerous cases concerning conscientious objection, and called upon the State to immediately release all conscientious objectors condemned to a prison sentence for exercising their right to be exempted from military service.[57] It also noted with concern that conscientious objectors' personal information might be disclosed online, and recommended ensuring that conscientious objectors' criminal records are expunged, that those who had been sentenced to prison for exercising their right to be exempted from military service are provided with adequate compensation and that their personal information is not publicly disclosed.[58] The concluding observations were quoted in a communication sent to the Republic of Korea by the Special Rapporteur on freedom of religion or belief, who noted that conscientious objectors who refused to perform the military service also bore the consequences of having a criminal record, which hindered their capacity to find employment in the private sector. Furthermore, their stigmatization as holders of a criminal record and "traitors" reportedly had other consequences in the social sphere, such as difficulties for marriage and ostracization from their families.[59]

43. In its concluding observations on the second periodic report of Tajikistan, adopted in July 2013, the Human Rights Committee reiterated its previous concerns and recommended that the State take the measures necessary to ensure that the law recognizes the right of individuals to exercise conscientious objection to compulsory military service, and establish, if it so wished, non-punitive alternatives to military service.[60]

44. The same Committee regretted that conscientious objectors and persons supporting conscientious objection in Turkey were still at risk of being sentenced to imprisonment and that, as they maintained their refusal to undertake military service, they were practically deprived of some of their civil and political rights, such as freedom of movement and the right to vote. Thus Turkey should adopt legislation recognizing and regulating conscientious objection to military service, so as to provide the option of alternative service, without the choice of that option entailing punitive or discriminatory effects and, in the meantime, suspend all proceedings against conscientious objectors and suspend all sentences already imposed.[61] In 2014, Turkey replied that there were no plans to introduce a civilian alternative to compulsory military service; the Committee, in its report on follow-up to concluding observations, assessed that response as "E: The response indicates that the measures taken are contrary to the Committee's recommendations".[62]

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[55] See CCPR/C/KAZ/CO/2, paras. 45-46.

[56] See CCPR/C/KGZ/CO/2, para. 23.

[57] See CCPR/C/KOR/CO/4, paras. 6 and 45.

[58] Ibid., paras. 44-45. See also the contributions from Connection e.V., World Without War and the Office of the General Counsel of Jehovah's Witnesses.

[59] A/HRC/32/53, p. 26; allegation letter of 11 December 2015, available at https://spdb.ohchr.org/hrdb/32nd/public_-_AL_Rep_Korea_11.12.15_(4.2015).pdf. See also contribution from the Quaker United Nations Office.

[60] See CCPR/C/TJK/CO/2, para. 21; see also CCPR/CO/84/TJK, para. 20.

[61] See CCPR/C/TUR/CO/1, para. 23.

[62] CCPR/C/112/2, pp. 18-19. See also contribution from the Association for Conscientious Objection.

45. In its concluding observations on the second periodic report of Turkmenistan, adopted in March 2017, the Human Rights Committee stated that it remained concerned about the continued failure to recognize the right to conscientious objection to compulsory military service and the repeated prosecution and imprisonment of Jehovah's Witnesses refusing to perform compulsory military service. The Committee recommended that Turkmenistan revise its legislation without undue delay with a view to clearly recognizing the right to conscientious objection to military service, provide for alternative service of a civilian nature outside the military sphere and not under military command for conscientious objectors, and halt all prosecutions of individuals who refuse to perform military service on grounds of conscience and release those who are currently serving prison sentences.[63]

46. In 2013, the Human Rights Committee expressed its concern to Ukraine that no measures appeared to have been taken to extend the right of conscientious objection against mandatory military service to persons who held non-religious beliefs grounded in conscience and beliefs grounded in all religions. In this context, the Committee stressed that alternative service arrangements should be accessible to all conscientious objectors without discrimination as to the nature of the beliefs (religious or non-religious beliefs grounded in conscience) justifying the objection, and should be neither punitive nor discriminatory in nature or duration by comparison with military service.[64]

47. In his 2015 report on his mission to Viet Nam, the Special Rapporteur on freedom of religion or belief noted that the right to conscientious objection to compulsory military service was not recognized at the domestic level and that there was no option of an alternative civilian service for individuals who objected, for conscientious reasons, to taking up arms. That contravened the right to freedom of thought, conscience and religion or belief, which provided protection, consistent with article 18 (3) of the Covenant, against being forced to act contrary to genuinely held religious or moral belief.[65]

48. While in the previous analytical report of 2013 it was noted that a trend to abolish or suspend compulsory military service had reduced considerably issues associated with compulsory and alternative service,[66] the trend seems to have been reversed. Since 2014, conscription has reportedly been introduced for the first time in several States (Kuwait, Qatar and the United Arab Emirates) or reinstated (Georgia, Lithuania and Ukraine), and some Governments announced plans to reintroduce compulsory military service (Croatia and Sweden).[67]

B. Restrictions on the right of freedom of expression for those who publicly support conscientious objectors and conscientious objection to military service

49. During the oral dialogue with the State delegation on the initial report of Turkey, several members of the Human Rights Committee raised concerns about the fate of conscientious objectors and those freely expressing their support for conscientious objectors, arguing that the terms of article 318 of the Criminal Code on alienating the public from the institution of military service, which was apparently used to prosecute conscientious objectors, seemed incompatible with freedom of expression.[68] The delegation of Turkey responded that due consideration would be given to the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression.[69] In its judgment of 15 November 2016, in the case of *Savda v. Turkey (No. 2)*, application No. 2458/12, the

[63] See CCPR/C/TKM/CO/2, paras. 40-41.
[64] See CCPR/C/UKR/CO/7, para. 19.
[65] See A/HRC/28/66/Add.2, para. 63.
[66] See A/HRC/23/22, para. 40.
[67] See contributions from the International Fellowship of Reconciliation and from War Resisters' International.
[68] See CCPR/C/SR.2929, paras. 4, 6 and 27.
[69] Ibid., para. 36.

European Court of Human Rights ruled that a violation of freedom of expression had occurred, ordering just satisfaction of €2,500 in non-pecuniary damages to the applicant. The case concerned the applicant's criminal conviction to a five-month prison sentence for having read out a statement to the press entitled: "We are in solidarity with the Israeli conscientious objectors".

50. In Ukraine, a journalist was arrested in February 2015 on charges of high treason and preclusion of lawful activity of the Armed Forces of Ukraine for publishing an anti-mobilization video, in which he had announced his refusal to be called up and had appealed to others to do likewise. While the first instance court sentenced him to three years and six months of imprisonment, the appeal court overturned his conviction in July 2016.[70]

C. Conscientious objection for those serving voluntarily in the armed forces

51. One contribution stressed that currently there were no provisions in the Greek legislation recognizing the right to conscientious objection for professional soldiers and that, additionally, such recognition was not possible in practice in view of a decision by the Minister of National Defence that established in 2005 that applications submitted after the enlistment in the Armed Forces of those interested were not accepted.[71]

D. Unjust procedures during application consideration

52. In its concluding observations on the fourth periodic report of Israel, adopted in October 2014, the Human Rights Committee remained concerned at the proceedings before the special committee in charge of recommending to the competent authorities whether to grant or reject an individual's application for exemption from compulsory military service for reasons of conscience and at the special committee's lack of independence, given that its membership comprised only one civilian member and all the rest served as officials of the armed forces. The Human Rights Committee recommended that the special committee should be made fully independent, and that proceedings before it should include hearings and provide for a right to appeal against negative decisions.[72]

53. In November 2015, the Human Rights Committee reiterated its concerns to Greece about the composition of the special committee that assessed applications for conscientious objector status and its reported lack of independence and impartiality, especially when hearings were held without all members present, and recommended that Greece consider placing the assessment of such applications under the full control of civilian authorities.[73] In May 2016, two recommendations on conscientious objection were made in the context of the universal periodic review; however, Greece did not accept those recommendations.[74] In September 2016, for the first time, the European Court of Human Rights found that there had been a violation of the right to freedom of thought, conscience and religion of a conscientious objector in a State that recognized conscientious objection. In the case of *Papavasilakis v. Greece*, the Court held that the lack of independence in the decision-making process meant that refusal to recognize the complainant's application for conscientious objector status violated article 9 of the Convention for the Protection of

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[70] See contribution from War Resisters' International. OHCHR reports on the human rights situation in Ukraine for the periods 16 February to 15 May 2015 (para. 72), 16 May to 15 August 2015 (para. 71), 16 August to 15 November 2015 (para. 63), 16 November 2015 to 15 February 2016 (para. 141), 16 February to 15 May 2016 (para. 117) and 16 May to 15 August 2016 (para. 115), available at www.ohchr.org/EN/Countries/ENACARegion/Pages/UAReports.aspx.

[71] Contribution from the Greek National Commission for Human Rights.

[72] See CCPR/C/ISR/CO/4, para. 23.

[73] See CCPR/C/GRC/CO/2, paras. 37-38.

[74] See A/HRC/33/7, paras. 136.15 and 136.16 and A/HRC/33/7/Add.1, p. 3. During the second cycle of the universal periodic review, from 2012 to 2016, out of a total of 26 recommendations relating to conscientious objection, only 4 were accepted by the States under review, whereas 22 recommendations on conscientious objection were noted (see http://s.upr-info.org/2nTJXrY).

Human Rights and Fundamental Freedoms. The Court considered that a final decision by the Minister of Defence, on the basis of a draft ministerial decision following a board's proposal, did not afford the requisite safeguards of impartiality and independence, especially where the person concerned was interviewed by a board of which a majority of the members were senior army officers.[75] Furthermore, according to the Greek Ombudsman, there is a constant practice of unequal treatment of those objecting on ideological grounds in comparison to those objecting on religious grounds, which is also reflected in official statistics between 2007 and 2015, showing a recognition rate for conscientious objectors on religious grounds of above 96 per cent, while the recognition rate on ideological grounds is usually around or below 50 per cent.[76]

E. Disproportional length of alternative service

54. A longer length of the civilian alternative service to military service for conscientious objectors in comparison to the length of military service infringes upon articles 18 and 26 of the Covenant if it is not based on reasonable and objective grounds. In several concluding observations adopted between 2013 and 2015, the Human Rights Committee encouraged several States to ensure that the length of service alternative to military service required for conscientious objectors was not punitive in nature.[77] With regard to the stipulation made by Kyrgyzstan of a shorter period of military and alternative service for persons with higher education, the Committee recommended that the State establish the length of military and alternative service on a non-discriminatory basis.[78]

55. Responding to the concerns of a member of the Human Rights Committee that periods of alternative civilian service that exceeded the standard length of military service could amount to a form of punishment against conscientious objectors, the delegation of Cyprus noted during its oral dialogue with the Committee in March 2015 that persons recognized as conscientious objectors could serve either 33 months of alternative social service or 24 months of alternative military service, explaining that the period of time served for alternative military service was shorter than that served for alternative social service owing to the more onerous tasks performed and the fact that the individual was away from home during his or her service.[79] In the report on his mission to Cyprus, the Special Rapporteur on freedom of religion or belief had also raised the issue that alternative military service was, at that time, between seven and nine months longer than the period of time for military service.[80] In July 2016, a new law was passed that reduced the period of military service from 24 months to 14 months and that of alternative social service to a maximum of 19 months.[81]

F. Conscientious objection in disputed territories not under the Government's control

56. In paragraph 7 of its Guidelines on International Protection No. 10, UNHCR notes that only States can require military conscription, whereas international law does not entitle non-State armed groups, whether or not they may be the de facto authority over a particular part of the territory, to recruit on a compulsory or forced basis. Yet, persons who live in such a disputed territory that is not under the Government's control often face human rights

[75] *Papavasiliakis v. Greece*.

[76] See contributions from the Greek National Commission for Human Rights and from the Association of Greek Conscientious Objectors.

[77] See CCPR/C/AUT/CO/5, paras. 33-34; CCPR/C/BOL/CO/3, para. 21; CCPR/C/FIN/CO/6, para. 14; CCPR/C/GRC/CO/2, para. 38; CCPR/C/UKR/CO/7, para. 19.

[78] See CCPR/C/KGZ/CO/2, para. 23.

[79] See CCPR/C/SR.3143, paras. 21 and 29.

[80] See A/HRC/22/51/Add.1, para. 67.

[81] Contribution from the European Bureau for Conscientious Objection.

protection gaps in view of a lack of recognition of the right to conscientious objection and a high degree of militarization owing to historical and geopolitical backgrounds.[82]

57. For example, with regard to the northern part of Cyprus, the Special Rapporteur on freedom of religion or belief noted that the absence of provisions concerning conscientious objection meant in practice that objectors faced the risk of punitive measures, and he referred to information received about six individuals who had submitted written refusals to take part in military training. He recommended that the de facto authorities recognize the right to conscientious objection to military service and ensure that conscientious objectors have the option of performing alternative civilian service that is compatible with their reasons for conscientious objection and does not have punitive effects.[83] One contribution for the present report noted that a "parliamentary committee" was investigating the possibility of instituting alternative service for conscientious objectors in the northern part of the island and had taken evidence from representatives of the conscientious objection movement in September 2016.[84]

58. The Special Rapporteur on freedom of religion or belief has also expressed concern at the situation in the Transnistrian region of the Republic of Moldova, where individuals who did not participate in regular military exercises were punished, without the possibility of being exempted from military service or of performing an alternative service.[85] The Special Rapporteur urged the "authorities" of the Transnistrian region of the Republic of Moldova to cease without delay practices of detaining persons objecting on grounds of religion or conscience to military service, and to develop rules for alternative service for such conscientious objectors.[86] In 2013, it was reported that persons known to be conscientious objectors had not been called up for military service in the Transnistrian region of the Republic of Moldova,[87] and that rules for a civilian alternative service for conscientious objectors had been adopted.[88]

59. In contributions for the present report it was noted that no progress had been made for conscientious objectors in other disputed territories in the South Caucasus region.[89]

V. Conclusions and recommendations

60. **Under international law, the right to conscientious objection to military service inheres in the right to freedom of thought, conscience and religion or belief. The present report shows that there have been important legal developments in recognition of conscientious objection to military service at the international, regional and national levels since the United Nations High Commissioner for Human Rights presented the previous analytical report to the Human Rights Council in 2013.**

61. **Some States have adopted laws and regulations that have led to the release of imprisoned conscientious objectors or that equalized the durations of military and alternative service. Furthermore, some national legislation explicitly provides for conscientious objection during military service and after the service has been completed. The rights of conscientious objectors have also been recognized when a country mobilizes for armed conflict.**

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[82] Bielefeldt, Ghanea and Wiener, *Freedom of Religion or Belief*, pp. 286–288.

[83] See A/HRC/22/51/Add.1, paras. 68 and 87.

[84] Contribution from the International Fellowship of Reconciliation.

[85] See A/HRC/19/60/Add.2, paras. 93 and 99.

[86] Ibid., para. 87. See also the Special Rapporteur's follow-up table, pp. 18–21, available at www.ohchr.org/Documents/Issues/Religion/FollowUp/cyprus.pdf.

[87] Thomas Hammarberg, Senior Expert, "Report on human rights in the Transnistrian region of the Republic of Moldova" (2013), available at www.un.md/publicdocgen/41, p. 43.

[88] Contributions from the International Fellowship of Reconciliation and from the Office of the General Counsel of Jehovah's Witnesses.

[89] Contributions from the European Bureau for Conscientious Objection, the International Fellowship of Reconciliation and the Office of the General Counsel of Jehovah's Witnesses.

62. At the same time, challenges remain, as some States continue not to recognize or fully implement the right to conscientious objection to military service in practice. Cases of punishment and repeated trial of unrecognized conscientious objectors are sources of concern, as is their stigmatization as holders of a criminal record and public disclosure of their personal information. Furthermore, there remain undue restrictions on freedom of expression for those who support conscientious objectors or who support the right of conscientious objection. Moreover, in some States that have recognized conscientious objection, the alternative service arrangements are not accessible to all conscientious objectors and are punitive or discriminatory in nature or duration by comparison with military service.

63. All persons affected by military service should have access to information about the right to conscientious objection and the means of acquiring objector status. Those who support conscientious objectors or who support the right of conscientious objection to military service should fully enjoy their freedom of expression. States should ensure that the right to object applies both to pacifists and to selective objectors who believe that the use of force is justified in some circumstances but not in others. Conscripts and volunteers should be able to object before the commencement of military service as well as at any stage during and after military service.

64. Alternative service arrangements should be accessible to all conscientious objectors without discrimination as to the nature of their religious or non-religious beliefs. States that do not accept claims of conscientious objection as valid without any inquiry process should establish independent and impartial decision-making bodies to determine whether a conscientious objection to military service is genuinely held in a specific case. After any decision on conscientious objector status, there should always be a right to appeal to an independent and civilian judicial body. States should ensure that alternative service is compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive character. Any longer duration in comparison to military service is permissible only if the additional time for alternative service is based on reasonable and objective criteria.

65. States must ensure that no one is detained arbitrarily, particularly in indiscriminate round-ups with the aim of identifying young persons who have failed to resolve their military status. States should release individuals who are imprisoned or detained solely on the basis of their conscientious objection to military service. Conscientious objectors should not be repeatedly punished for not having obeyed a renewed order to serve in the military. Personal information of conscientious objectors must not be disclosed publicly by the State and their criminal records should be expunged. States must neither discriminate against conscientious objectors in relation to their civil, cultural, economic, political and social rights nor stigmatize them as "traitors". Refugee status should be granted to those who have a well-founded fear of persecution in their country of origin owing to their refusal to perform military service when there is no provision, or no adequate provision, for conscientious objection to military service.

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Annual Report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Expert workshop on the impact of existing strategies and initiatives to address child, early and forced marriage

Report of the High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 29/8 on strengthening efforts to prevent and eliminate child, early and forced marriage. In that resolution, the Council requested the United Nations High Commissioner for Human Rights to organize an expert workshop to review and discuss the impact of existing strategies and initiatives to address child, early and forced marriage and to make recommendations for further action by States and the international community towards the full implementation of human rights obligations in that regard. The present report contains a summary of the discussions that took place during the expert workshop, which took place in Geneva on 21 and 22 October 2016.

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I. Introduction

1. In its resolution 29/8, the Human Rights Council requested the United Nations High Commissioner for Human Rights to organize an expert workshop to review and discuss the impact of existing strategies and initiatives to address child, early and forced marriage and prepare a report on the deliberations held during the workshop to be submitted to the Council at its thirty-fifth session. The workshop took place on 21 and 22 October 2016. About 30 experts from 17 different countries attended, including participants from government institutions, civil society organizations, research institutions, United Nations entities, the judiciary and national human rights institutions, as well as traditional leaders, parliamentarians and United Nations independent human rights experts. The list of participants at the workshop and the background document can be found on the web page of the Office for the United Nations High Commissioner for Human Rights.[1]

2. The present report includes a summary of the views shared and recommendations made by participants. The thematic areas in the four sections below were discussed on the basis of existing guidance by human rights mechanisms and the findings and recommendations contained in the report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on preventing and eliminating child, early and forced marriage (A/HRC/26/22 and Corr.1) and the report of the Secretary-General on child, early and forced marriage (A/71/253).[2]

II. Impact of existing legislative measures

3. The experts stressed the need for different legal frameworks to address child and forced marriage.

4. Experts also stressed that increasing focus is being placed on the adoption of laws that prohibit child marriage, with a minimum age set at 18 years for boys and girls. However, there are persisting challenges in implementing child marriage legislation in plural legal systems. The enactment of laws applicable to all girls regardless of their personal and religious status was mentioned as being critical in order to overcome the disparities in marriage provisions in plural legal systems. In Kenya, for example, the 2014 Marriage Act sets the minimum age of marriage at 18 regardless of the personal status or the faith of the child and encompasses all personal status and supersedes religious and customary laws. It was stressed that constitutional reform can be an opportunity to ensure legal protection against child and forced marriage.

5. Where compulsory birth registration is provided by law, it has helped to track the ages of people being married in traditional or religious bodies and contributed to protecting girls. In Bangladesh, the use of smart cards and digital devices for identity cards to track the age of those who married in traditional bodies had a positive impact in that regard. Accurately assessing the impact of birth registration within communities requires consistent data-collection systems and strong monitoring processes that are often not provided for in the law or do not exist.

6. Participants agreed that making child marriage a criminal offence helps to ensure adequate protection for victims, in particular if the law foresees the issuance of protection orders. Also, in some contexts, the criminalization of child marriage had empowered professionals working with children to have open discussions about the issue, where they had previously felt restrained by concerns of being perceived as insensitive to cultural specificities, especially when the practice affects minority groups. However, it was also stressed that legislation criminalizing child marriage places the burden of proof overwhelmingly upon girls and women and, in practice, a lack of protection measures for those who report such practices often results into withdrawals of complaints. Such reporting

[1] www.ohchr.org/EN/Issues/Women/WRGS/Pages/VAW.aspx.

[2] See the background document for a summary of relevant guidance and summary under each topic.

rarely leads to criminal prosecutions. When criminal prosecution does take place, it can be lengthy, costly and lead to further victimization. Furthermore, child survivors were reported to have dropped cases for fear of criminal sanctions against their parents and family members.

7. It was recognized that the onus to initiate a procedure to declare a child, early or forced marriage null and void falls mainly on the girls or women in question. However, they are often unable to act owing to an overall lack of awareness of the procedure or the unavailability of legal aid to support them in the process.

8. The need to transfer the burden of reporting a risk of or an actual child or forced marriage from the survivors to other individuals and professionals was repeatedly mentioned as a critical step. The obligation to report on social, education, religious or customary authorities, with clear sanctions for the failure to do so, had in some contexts been successful. It was also stressed that the criminalization of child marriage could result into the stigmatization of entire communities, and in some contexts alternative sanctions should be explored. For example, this could include administrative or pecuniary sanctions for local or religious leaders who attend or solemnize child marriage, or the acknowledgement of any actions by public officials to address child or forced marriage when they are considered for promotions.

9. Participants stressed the need for comprehensive approaches to legal reform, encompassing criminal and civil laws, to ensure adequate prevention of and redress for child and forced marriage. Legislation should address some of the factors that lead families to enter their children into a premature or forced marriage. Female genital mutilation, which in some contexts is the first step towards child marriage, should be prohibited. Discriminatory legislation limiting women's freedoms and rights and, as a result, their choices beyond marriage should also be eliminated. Efforts to address contradictions and loopholes in the legal framework were also stressed as critical. For example, legislation on statutory rape should not exempt married couples, as is currently the case in India. Legislation and policies preventing access to sexual and reproductive rights information and services for adolescents represent a barrier to efforts to prevent child marriage, for example, in contexts like Latin America, where the main driver of child marriage is unwanted pregnancies.

10. Legal provisions that result in excluding married girls and women from support should also be eliminated. Legal factors preventing women from seeking the annulment of marriage should also be addressed, such as laws providing that married girls need to wait until they reach a certain age to divorce or else they lose their rights to inheritance, which may leave no choice but to remain in the marriage.

11. It is of concern that legislative measures to prohibit child marriage are not adequately coupled with protective measures, remedies and reparations, as this prevents their successful enforcement. There is a need for better coordination of actions to prevent child marriage, protect victims and ensure their access to services and remedies. It is important for legislation to guide different government agencies so that all professionals who come into contact with girls at risk can work together to support them, otherwise there is a risk of inaction. Furthermore, it is important for legislation to specifically recognize the services to which victims of child and forced marriage should have access. Monitoring and evaluation of legislation was considered very weak in most countries, with no national coordinating body in place in most cases.

12. Experts stressed the importance of using the available legal framework in more effective ways to protect girls and women from child and forced marriage, including laws and provisions on sexual violence, domestic violence, child protection and witness protection.

13. The judiciary plays a key role in the proper enforcement of national and international legal frameworks to protect women and girls from child and forced marriage. For instance, in Niger, the United Republic of Tanzania and Zimbabwe, national courts

have significantly contributed to eliminating the practice, either by declaring as unconstitutional any provisions of laws on child marriage,[3] or by issuing protection orders as preventive measures for persons at risk. However, frequently, inadequate knowledge and application of the legislation by the judiciary represents an obstacle. In many places, the judiciary does not consistently apply constitutional or human rights guarantees to protect girls and women from child and forced marriage. In some contexts, the justice system is negligent in enforcing the law on child marriage within minority communities, such as the Roma community, on the pretext of respect for cultural practices. The need to assess judges' knowledge of national and international legislation on child and forced marriage prior to their confirmations was stressed as a good practice to address this obstacle.

14. Experts stressed how genuine and meaningful participation of stakeholders in law-making is inadequate. Legislation planned and implemented in a participatory and inclusive manner has the potential to capture the complex multifaceted nature of child marriage and better respond to the rights and needs of women and girls. For instance, involving girls at the outset of legislative initiatives and using them as transformative agents to challenge harmful laws have brought positive outcomes in Jordan, Kenya, Malawi, Zambia and Zimbabwe. In Kenya, as a constitutional requirement, public participation in law-making has allowed the involvement of influential actors into the drafting of the Child Marriage Act. To ensure a broad participation, mobilization should take place both at the national and grass-roots levels and involve different types of influencers and actors in the discussions, including researchers, politicians, judges and human rights activists.

15. The role of national human rights institutions in monitoring the existence of an adequate legal framework and its enforcement was stressed. The 2014 Kathmandu Call for Action to End Child Marriage supports monitoring the efforts of national human rights institutions to promote accountability for violations of rights resulting from child marriage.

16. Experts stressed the importance of subregional and regional policies and approaches to guide legislative efforts in the area of child and forced marriage.

17. More research on the issue of preventing the child and forced marriage of women and girls with dual nationality was needed, as well as more emphasis on how to protect the rights of girls in "informal unions". The need to monitor the impact of legislation in rural and urban areas was mentioned, including the actual capacities of girls and women to gain access to legal remedies.

III. Impact of existing policy measures

18. Experts referred to recent global and regional efforts to address child, early and forced marriage, including the African Union Campaign to End Child Marriage and the United Nations Population Fund and the United Nations Children's Fund Global Programme to Accelerate Action to End Child Marriage.[4] These programmes have encouraged the adoption of national policies and strategies. While the programmes are relatively new, there have been some efforts to assess their impact, for example, in countries such as Chad, the Gambia, Ghana, Mozambique, Nepal, Uganda, Zambia and Zimbabwe.

19. A number of lessons have been learned from developing and implementing strategies on child and forced marriage. In general, they have led to clear progress in breaking taboos about the issues and garnering support for greater political will and civil society mobilization.

20. The process adopted in the development of national strategies, plans and policies has proved to have had a considerable impact on the relevance of their content and the chances of their successful impact. Strategies should be informed by mapping of hotspots and

[3] In July 2016, the High Court of the United Republic of Tanzania ruled that laws allowing boys and girls to marry at different ages, specifically allowing girls to marry under 18 years of age, were discriminatory and unconstitutional.

[4] Available from www.unicef.org/protection/57929_92681.html.

research into the drivers of child marriage in high-prevalence communities, as well as the triggers that have led some communities to abandon the practice. Policies and strategies must be designed with the participation of different sectors, including health, education, justice, social affairs and child protection, and of women, girls, their families, communities and religious leaders. This is essential to ensure that policies are contextualized and respond to the needs of women and girls in specific communities, and that there is the ownership necessary to ensure their implementation.

21. While the involvement of one particular minister — often for gender or education — to coordinate work across sectors has had limited impact, interministerial bodies set up with the ability to influence all ministerial departments have appeared to achieve better results. In Zambia, a body composed of ministers and chief executive officers coordinated the development of a comprehensive national plan that was then transformed into targeted interventions for each ministry. Ensuring adequate financial resources for the strategies was also highlighted as a serious challenge. Channelling the resources to reach the grass-roots communities and the groups concerned should be looked at as a priority, especially when rural and remote areas and poor urban settings are the most affected.

22. In different contexts, utilizing specific strategic entry points to address child marriage has been important in overcoming societal resistance to challenge the practice. For example, framing policies around the need to address obstetric fistula, ensure access to education, promote adolescent health, eliminate maternal mortality or tackle domestic violence have been used as opportunities to advance discussions on the elimination of child and forced marriage.

23. In terms of content, experts stressed the importance of strategies that are rights-based and address the root causes of child marriage, focusing on girls' and women's empowerment. While not all interventions need to be labelled specifically as addressing child and forced marriage, it is important to have clarity on the elements that successful strategies should encompass. Girls' access to quality education, in particular secondary education, is a key component. One expert recommended that education should be compulsory up to 18 years of age. National policies on education should address child marriage, which often represents one of the main obstacles for girls. Also, schools should be made safe spaces for girls, which is currently not the case in many contexts. Access to comprehensive sexuality education and youth-friendly sexual and reproductive health services have been found to be a critical component of successful strategies to address child marriage and protect the rights of girls in the context of marriage. Ensuring that once girls complete education they have employment opportunities is another key element of successful policies. Programmes such as cash transfers were considered successful, although they should be monitored to ensure that they have the intended impact in upholding women's and girls' rights, as research indicates this is not always the case. Policies and plans must further encompass efforts to challenge stereotypes and perceptions about the roles of girls in societies, as well as social norms about, inter alia, girls' sexuality and pregnancy outside marriage.

24. Experience shows that policies and plans need to include specific measures to reach the most marginalized girls and women. Programmes providing girls with smartphones, through which they can have easy access to information on available services, were found to be successful. The need for a greater focus on girls around the age of puberty was stressed to be essential for effective prevention strategies.

25. The need to work with and through civil society, as well as directly with girls, was repeatedly raised. Civil society actors, especially at the grass-roots level, have close ties within communities and possess particular expertise for moving discussions forward. The potential of peer-to-peer education and information is immense. The use of social media by girls to raise awareness about and stand-up against child marriage can be a powerful game changer. Investing at the grass-roots level in community youth movements and amplifying girls' voices was indicated as one of the most effective and underfunded strategies to bring about change. The need to scale-up existing initiatives in this regard was underlined.

26. Promoting accountability for the implementation of strategies to address child and forced marriage should be a priority, including through regular data collection to monitor

the impact of policies and plans. Independent national human rights institutions have an important role to play. Also, with adequate training and sensitization, parliamentarians can play an important role in monitoring progress and tracking resources. In this regard, it is critical to be clear on which aspects should be monitored. For instance, the focus should not be exclusively on whether marriage was delayed until after the age of 18, but rather on how the rights of girls and women have been upheld, and their choices expanded beyond marriage.

27. Experts agreed that the 2030 Agenda for Sustainable Development includes important commitments to address child and forced marriage. To deliver on those commitments, implementation in line with the human rights framework and recommendations by human rights mechanisms will be fundamental.

IV. Impact of measures to address social norms that support child, early and forced marriage

28. Experts shared experiences in tackling stereotypes and social norms that support child and forced marriage. Among the norms that are most difficult to address are those related to children's sexuality and expectations of girls concerning their role as wives and mothers. The need to invest more in challenging perceptions around "morality" was stressed. Programmes aimed at addressing social norms should be evidence-based, scientifically accurate and contextualized.

29. Building movements of young people to transform social norms was a very successful strategy. Experience shows that peer-to-peer support, education and sensitization are critical to changing mindsets and reaching girls out of school.

30. Engaging schools, media and local artists are important strategies for providing alternative notions of what it means to be a girl or a woman. In turn, girls understand they can have aspirations and build the skills to realize their full potential. A campaign launched in Malawi and Zambia demonstrated the impact of good quality education for girls, presenting profiles of girls who had benefitted from the campaign as role models for the younger girls. Social norms critical of girls who are assertive must be countered, and girls should have opportunities to cultivate the skills they need to articulate and pursue their ambitions. Sport is an important avenue for girls to build life skills. In Togo, the United Republic of Tanzania and Zambia, football has been used to that end. In Bangladesh, efforts have been made to support girls to play in public spaces, searching to counter norms that limit their mobility once they reach puberty.

31. School debates on child marriage as a violation of child rights should take place in schools, youth clubs and other safe spaces as a means of raising awareness of young people.

32. Experience also shows the importance of working with "gate keepers", including mothers, fathers and other family members. It is important to be mindful of the fact that the narrative used about the risks of child marriage, often with a focus on violence and maternal mortality, does not necessarily correspond to the reality in which women live. Therefore, in order to discourage them from allowing their own daughters to marry, additional arguments should be used, including on the promises of education. Furthermore, community dialogues that dare to "speak the unspoken" are key to identify and amplify "deviant" voices in the communities concerning what is considered acceptable behaviour.

33. Public mobilization, including petitions or marches, are important to raise awareness and break taboos around child and forced marriage, as is training media actors on child protection and encouraging media coverage of stories of child and forced marriage. Promoting intergenerational dialogues through media, theatre and music has also proved successful.

34. Working with traditional leaders and enlisting their support against child and forced marriage is fundamental, as families and communities respect and listen to their views. A traditional leader, for example, explained how she had instructed other chiefs not to celebrate child marriage and how she had been successful in annulling over 1,500 child marriages and sending the girls back to school. From 2014 to 2017, the above-mentioned

African Union Campaign used traditional and religious leaders to prevent faith-based support to child marriage. During that time, community awareness campaigns led by chiefs entailed thousands of public declarations to stop celebrating child marriage.

35. Men and boys are also powerful actors of change. They have participated in advocacy campaigns in Brazil and Zambia to transform views on the practice of child marriage. Research has shown the need for the promotion of alternative models of masculinities. The experts stressed the need to work with fathers to change the understanding of what it means to "love" a daughter and encourage a shift in mindsets from "protecting her" to "empowering her". Deconstructing the meaning of protection and linking it to human rights is crucial for families and communities to challenge the idea, for example, that marriage is to protect girls' safety in contexts of insecurity and violence.

36. Efforts to address social norms must be grounded at the local level in order to strengthen credibility and to avoid perceptions around the imposition of foreign values. In order to counter possible backlashes resulting from efforts to dismantle harmful social norms, it is important to have a network of champions or supportive local influential figures.

37. While efforts to address social norms are critical, it is important to be mindful that understanding the socioeconomic dimensions of child and forced marriage is also fundamental. Continued discrimination on the basis of gender limits opportunities for women and girls and results in the notion that marriage is their best option. Efforts by communities, religious and traditional leaders and societies at large to address support for child and forced marriage must go hand in hand with efforts to expand opportunities for women and girls, ensuring the accessibility, quality and safety of education and the removal of legal, policy or economic obstacles to women's participation in the labour force. For example, a traditional leader stressed how she had enlisted support against child marriage from families by stressing how educated girls would be an asset for them. However, the support received is not sustainable if families do not have the resources to cover school fees, access to transportation to schools and assurances about safety within educational facilities. Measures to reduce the financial burden of unmarried girls on families living in poverty have also been successful, including by guaranteeing livelihoods of families provided that they keep their girls in school and/or delay marriage. In Brazil, the economic empowerment of pre-adolescents and adolescent girls has helped to prevent early pregnancies, which are a common reason for girls to get married or enter into informal unions.

38. The need was stressed to strengthen funding channels and mechanisms for long-term engagement at the grass-roots level.

V. Impact of protection measures

39. Experts agreed that the lack of adequate social and protective measures continued to be a reality in many high-prevalence countries. In some contexts, the services were so weak that victims considered remaining in a marriage as being their only option. For instance, where women and girls see no alternatives for survival, such as shelters or social security, and cannot rely on their families for support, they are left without the resources necessary to pursue a claim. Shelters are often not well located and in very poor conditions, and, in some countries, protection services are provided at the same institutions as the ones responsible for juvenile justice. At times, protection orders have resulted in the detention of girls and women victims of child and forced marriage. Costs relating to services were indicated as another important obstacle to their accessibility for many of the potential or actual victims.

40. There is a need to go beyond the specific legislation on child and forced marriage and use the full scope of available protection measures and mechanisms to provide assistance to potential and actual victims of child and forced marriage. This includes legislation on domestic violence, sexual violence or other specific forms of gender-based violence, as well as laws relating to the family. The mechanisms available in the different

pieces of legislation, such as protective orders, residence or custody orders, are often unknown by victims, or even the lawyers and activists who support them.

41. The combining of services was mentioned as a good way of combating stigma and ensuring adequate referral. In countries like Bangladesh, mobile legal services with paralegals have been set up to reach rural and remote areas. Innovative ways to provide information, for example, using smartphones, were also mentioned. Youth clubs established in 30 villages in Niger within the framework of the project entitled "Raise my voice" were also a successful example of how to raise awareness and provide information and referral to victims. National hotline services on violence against women or trafficking, linking women and girls to required services, have also proved to be critical for protection purposes. Helplines have, for example, been successfully used in countries such as Kenya, Malawi, Mozambique and Zambia, with the support of radio campaigns. Civil society organizations are deeply engaged in the development and implementation of some of these projects. Partnerships between Government and civil society to provide protection services are very important, as civil society organizations can promote the integration of some of the successful strategies into government policies.

42. Law enforcement, the judiciary, education and health-care providers are often influenced by harmful stereotypical perceptions and social norms, resulting in negligent or inadequate protection responses. For example, judges often take gender-blind decisions, leading to discrimination instead of using constitutional and other human rights guarantees to ensure the best possible protection for women and girls. Addressing stereotypical, judgmental attitudes should be a priority, through training, codes of conduct and the implementation of disciplinary measures. It was also stressed that access to protection and remedies can be influenced by the religion, ethnicity, disability or location of the victims. It was recalled that legislation often spells out general or specific duties for the police, health-care providers or other service providers.

43. The lack of accessible, good quality legal aid services is a concern in many high-prevalence countries. Often, girls and women are not given adequate advice on the remedies available. Monitoring service provision and ensuring transparency and accountability in interventions to prevent and respond to child marriage were stressed as critical. Again, the role of national human rights institutions was considered critical in this regard. The national human rights institution in Nepal has, for instance, launched a national inquiry programme on rape and child marriage and developed monitoring tools on child rights for the nine regions of the country. Civil society organizations also gave examples of initiatives to demand accountability, through monitoring and advocacy. Women's movements in Brazil, for example, have been devoting increased attention to the responses provided by the police and more broadly by the State to child marriage.

44. The need for greater focus on health and social services for girls who are already married was stressed, including the specific needs of minority communities in this regard. Efforts to ensure young married couples have access to services have led to a reduction of violence and increased use of family planning methods in countries such as Ethiopia, Malawi and Uganda. The use of mobile telephones to provide information on sexual and reproductive health was referred to as a good example. Inadequate attention to the mental health of the victims was flagged as an important gap. The need for more research on successful exit strategies for girls and women in child and forced marriage was mentioned.

45. Further cooperation is required to ensure that protection orders against child and forced marriage issued in one country will apply in the country of origin of the girl or woman concerned or in a third country. The need was stressed for there to be more attention to conditions for recognizing foreign marriage.

VI. Conclusion and recommendations

46. **The experts stressed the crucial need to recognize child and forced marriage as a human rights violation and manifestation of gender-based discrimination. In this regard, they recommended that measures be adopted to address comprehensively the drivers and causes that expose women and girls to the practice. This requires, inter**

alia, introducing and enforcing laws and policies that promote equality for women and girls and prohibit violence against them, as well as repealing discriminatory laws, laws that have a discriminatory impact and laws that enable harmful practices. It also requires the introduction of measures to promote women's control over their bodies and lives, including those that give them adequate access to education, sexual and reproductive health and rights, information and services. Women's equal rights with regard to employment also must be assured. There is a need to invest in women and girls as agents of change towards the eradication of child, early and forced marriage and other harmful practices and for the full enjoyment of their fundamental human rights. Interventions should be guided by the principles of the best interest of the child and non-discrimination, and should apply to all individuals and communities, without discrimination on the grounds of origin, ethnicity or social status. There was a call to recognize and prioritize the need to engage other sectors, such as gender affairs, child protection, education, health and justice, in global, regional and subregional responses to child and forced marriage.

47. In addition to the recommendations contained in sections II to V above, in the closing session experts recommended that the international community, States members of the United Nations, civil society organizations and other relevant stakeholders:

(a) Promote locally relevant, contextualized initiatives to eliminate child and forced marriage. These initiatives should be developed with the full and meaningful participation of local communities, including women and girls, religious and traditional leaders, teachers and others who have an influence in the matter;

(b) Ensure more regular independent and objective assessments of global, regional and national programmes with a view to learning from successes and failures and to documenting good practices. Women, girls and affected communities should be involved meaningfully in monitoring and evaluation processes. The impact assessments of initiatives should extend to the local level to ensure programmes respond to actual drivers and root causes of child and forced marriage and to the needs of women and girls;

(c) Provide increased support to the work of regional and subregional organizations to address child and forced marriage and opportunities to exchange lessons learned and good practices at the regional and subregional levels;

(d) Ensure greater financing of grass-roots initiatives to address child and forced marriage, particularly those amplifying the voice and agency of adolescent girls and young women. Such initiatives have an enormous potential to facilitate intergenerational dialogue and challenge the cultural norms that support harmful practices;

(e) Promote greater accountability at the international level for rights-based efforts to eliminate child and forced marriage, including through all relevant reporting mechanisms, such as the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women, and the Universal Periodic Review. Strong linkages should be established between the work and recommendations of the United Nations human rights architecture, including the Human Rights Council and human rights mechanisms, and the implementation and monitoring of relevant goals and targets of the Sustainable Development Goals, particularly Goal 5.3 to eliminate all harmful practices, such as child, early and forced marriage and female genital mutilations;

(f) Strengthen efforts to ensure accountability at the national level, including monitoring and tracking funding for women's rights and child protection; ensure national human rights institutions have the mandate, resources and capacity to hold States accountable for addressing the practice adequately; strengthen the role of parliamentarians to monitor the implementation of policies and allocation of resources to eliminate child and forced marriage; and protect civil society space and support the engagement of civil society organizations in the area of child and forced marriage;

(g) **Ensure stronger investment in providing access to quality education for girls, including secondary education, including in situations of emergencies and displacement;**

(h) **Combine the prohibition of child and forced marriage with better services for actual and potential victims. Provide greater investment in the appropriate enforcement of legislation and protection and support measures, including legal aid for those affected by child and forced marriage, strengthened knowledge of the judiciary of the existing national and international framework to protect girls and women from child and forced marriage and measures on training, awareness-raising and accountability to ensure adequate responses. This should also include greater investment in ensuring the availability of adequate, child-friendly and gender-sensitive services and in building the capacities of all professionals that play a role in preventing child and forced marriage and protecting victims.**

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Panel discussion on the implementation of the United Nations Declaration on Human Rights Education and Training: good practices and challenges

Summary report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 31/21. It provides a summary of the high-level panel discussion on the implementation of the United Nations Declaration on Human Rights Education and Training: good practices and challenges, held on 14 September 2016, during the thirty-third session of the Council. It contains a summary of the conclusions drawn from the panel discussion in relation to furthering human rights education and training in the light of the Declaration.

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I. Introduction

1. In its resolution 66/137 of 19 December 2011, the General Assembly adopted the United Nations Declaration on Human Rights Education and Training, highlighting the essential contribution of human rights education and training to the realization of all human rights.

2. Pursuant to its resolution 31/21, the Human Rights Council convened at its thirty-third session a high-level panel discussion to mark the fifth anniversary of the Declaration, entitled "The implementation of the United Nations Declaration on Human Rights Education and Training: good practices and challenges", on 14 September 2016.[1]

3. The panel discussion was chaired by the President of the Human Rights Council, Choi Kyonglim, and moderated by Cristiana Carletti, Associate Professor of International Law, Roma Tre University and holder of the United Nations Educational, Scientific and Cultural Organization (UNESCO) Chair in International Law for the Protection of Cultural Heritage. The United Nations Deputy High Commissioner for Human Rights, Kate Gilmore, opened the discussion and Jordan Naidoo, Director of the Division of Education 2030 Support and Coordination of UNESCO, delivered the keynote address. The panellists were Sonia Marta Mora Escalante, Minister of Education of Costa Rica and President of the National Accreditation System of Higher Education; Flavia Piovesan, Secretary for Human Rights of the Ministry of Justice of Brazil; Driss El Yazami, Chair of the National Human Rights Council of Morocco; and Herman Deparice-Okomba, Executive Director of the Centre for the Prevention of Radicalization Leading to Violence, Montreal, Canada.

4. A segment of the documentary *A Path to Dignity: The Power of Human Rights Education* was shown prior to the statements by the panellists. During the ensuing discussion, contributions were made by representatives of 23 States and the European Union, one international organization, two human rights institutions and four non-governmental organizations (NGOs).

II. Summary of the opening statement and keynote address

A. Opening statement

5. In her opening statement, the United Nations Deputy High Commissioner for Human Rights recalled that the United Nations Declaration on Human Rights Education and Training placed human rights education and training as core pillars in the global effort to realize all human rights for all. She stated that the adoption of the Declaration was part of a standard-setting process that began with the Universal Declaration of Human Rights, which tasked every individual and institution to promote respect for human rights through teaching and education. She highlighted a number of related issues.

6. Sustainable solutions to the current world human rights crises and chronic problems could only be found if the core values and choices of leadership and constituents were grounded in a shared understanding that each person was equally deserving of dignity, respect and justice. The transmission of these core and universal values was the task of human rights education, which contributed to broader human rights strategies to tackle current global challenges.

7. Human rights education should be contextualized to address specific realities and human rights problems faced by learners. The Deputy High Commissioner highlighted the experience of Premalatha, an Indian girl whose story is narrated in the documentary *A Path to Dignity: The Power of Human Rights Education*, to stress the role of human rights

[1] See http://webtv.un.org/meetings-events/human-rights-council/regular-sessions/33rd-session/watch/panel-discussion-on-human-rights-education-and-training-6th-meeting-33rd-regular-session-human-rights-council-/5126507934001.

education in transforming victims of human rights abuses into human rights defenders. She stated that human rights education should enable learners — like Premalatha — to think critically and raise their awareness for inclusive solutions. It should therefore be engaging and relevant to the experience of the learners.

8. Cooperation of all actors at the local, national, regional and international levels was essential for promoting human rights education. The Deputy High Commissioner highlighted States' obligations under international human rights law to provide and facilitate human rights education and training, as well as the important role played by other national actors, including national human rights institutions and civil society organizations. She also emphasized the value of multi-stakeholder initiatives and the need for support to national efforts by international human rights mechanisms and international cooperation in general.

9. An improved international reporting and monitoring system in the area of human rights education could encourage national implementation through the dissemination of good practice and expert advice. In that context, the Deputy High Commissioner drew attention to United Nations initiatives aimed at encouraging national action, such as the Decade for Human Rights Education and the World Programme for Human Rights Education. She also emphasized that human rights education was included in the 2030 Agenda for Sustainable Development as a specific target of Goal 4 on quality education. She called on all States to implement those initiatives nationally and praised the countries that were already pursuing human rights education programmes.

10. Human rights education fosters a common humanity beyond individual diversities. The Deputy High Commissioner noted that human rights education was vital to sustain social cohesion, promote inclusion and participation and ultimately prevent violence and conflict. She concluded that human rights education was an investment in the future, which could not be overlooked.

B. Keynote address

11. The Director of the Division for Education 2030 Support and Coordination of UNESCO delivered the keynote address on behalf of the Director-General of UNESCO. He highlighted the fundamental role of education towards realizing all the Sustainable Development Goals and the particular focus that target 4.7 placed on the link between education and human rights. He stressed the need for human rights education to empower people to understand and claim their rights, as well as to prevent human rights violations, violence and conflict.

12. The Director highlighted the work of UNESCO in developing and monitoring norms and standards to foster the implementation of the right to education at country level, by building related capacities and collecting good practices, particularly on human rights education and the prevention of violent extremism through education. The 1960 UNESCO Convention against Discrimination in Education articulates the core elements of the right to education, while the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms enables the regular gathering of information on national progress achieved in the field of human rights education. He also mentioned the promotion of human rights education within the Global Citizenship Education programme in support of the Global Education First Initiative and, more recently, as an integral part of Sustainable Development Goal 4. The Director reiterated the commitment of UNESCO to cooperate with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and States to advance the human rights education agenda.

III. Contributions of the panellists

13. A segment of the documentary *A Path to Dignity: The Power of Human Rights Education*[2] was shown prior to the panellists' interventions. The segment narrated the story of Premalatha, a girl from a village in Tamil Nadu, Southern India, who faced discrimination not only as a member of a lower caste, but also as a girl. Through a human rights education programme at her school, Premalatha gains confidence and starts viewing herself no longer as a victim, but as a human rights defender. The moderator highlighted three key messages of this story: (a) human rights education starts with the daily life of the learners, engaging them in a critical reflection on the human rights challenges they face; (b) human rights education is an empowering process that provides learners with the tools, knowledge and skills to address their human rights challenges; and (c) human rights education leads to action that is consistent with the basic principles of human rights to further promote and protect human rights. She considered that the human rights education programme in Premalatha's school represented a good practice of cooperation between civil society, which delivered the programme, and governmental authorities, which allowed the programme to run in public schools.

14. In introducing the Minister of Education of Costa Rica, the moderator noted that Costa Rica had been advocating for human rights education at the international level by promoting the Decade for Human Rights Education (1995-2004) and the World Programme for Human Rights Education (since 2005). In response to a question as to what motivated the country to drive those initiatives and what lessons could be shared from the experience, the Minister responded that Costa Rica's leadership in the area of human rights education had its roots in its national tradition of peace based on respect for human rights. Moving away from the fictitious image of a homogenous State, Costa Rica had sought to develop an understanding of itself as a multi-ethnic and diverse State that promoted and exercised non-discrimination. She stated that that process went hand in hand with the human rights education actions taking place at both the national and international levels.

15. In Costa Rica, a human rights education network composed of government officials and representatives of the *Defensoría de los Habitantes* (Ombudsman's Office), academic institutions and civil society was currently developing a national policy for human rights education, and the process had stimulated debates in the country on effective strategies and methodologies. The "Education For a New Citizenship" vision, which links citizenship with — among others — sustainable development, human rights, equality and social equity, guides the entire work of the Ministry of Education. Current areas of focus included combating discrimination against people of African descent and on the grounds of sexual orientation or gender identity. The 2015 Declaration of the Ministry of Public Education as a workplace free from discrimination on the basis of sexual orientation and gender identity guided educational reforms. In concluding her statement, the Minister called for a lively debate in the Human Rights Council on effective strategies for promoting human rights education and training.

16. Regarding the impact of the 2003 National Plan for Human Rights Education, developed by a committee composed of various national governmental and non-governmental stakeholders, the Secretary for Human Rights of the Ministry of Justice of Brazil stated that the right to human rights education was a right in itself that was enshrined in the Universal Declaration of Human Rights (art. 26), the International Covenant on Economic, Social and Cultural Rights (art. 13) and other international human rights treaties. She stated that the Declaration on Human Rights Education and Training provided a more precise formulation of that right and its implications. She added that human rights education played an important role in the implementation of the 2030 Agenda for

[2] The film includes two other segments that illustrate the impact of human rights training on law enforcement agencies in Australia and on women victims of violence in Turkey. Jointly produced by Human Rights Education Associates, Soka Gakkai International and OHCHR, *A Path to Dignity: The Power of Human Rights Education* is available in Arabic, Chinese, English, French, Japanese, Russian and Spanish from www.path-to-dignity.org/.

Sustainable Development not only as part of Goal 4, but also as a necessary prerequisite for the achievement of all other goals.

17. The Secretary for Human Rights stressed the importance of the right to education — in its four dimensions — for the effective realization of all other human rights: (a) the availability of education programmes of sufficient quality; (b) the full accessibility of those programmes and of educational institutions; (c) the acceptability and cultural appropriateness of the educational programmes; and (d) the adaptability to social changes and to the needs of cultural and social diversity. The Government of Brazil drew upon these standards and principles in its own national human rights education policy. The 2003 National Plan for Human Rights Education focused on five thematic axes: basic education, higher education, non-formal education, education for justice and law enforcement professionals, and education and the media. The Government had implemented programmes and projects along all five axes and had drawn upon the lessons learned from those programmes to set out the National Guidelines for Human Rights Education, in 2012.

18. The Secretary for Human Rights highlighted other related projects, including the National Human Rights Education Prize, awarded to institutions that have implemented educational activities that promote a culture of human rights; the Human Rights Film Festival, an annual film festival addressing human rights issues, that is held in up to 1,000 cultural centres across all 27 states; and the National Pact with Universities for the Promotion of Respect for Diversity and a Culture of Peace and Human Rights, which promotes human rights as an academic discipline and a field of research by raising awareness among professionals and students and disseminating best practices in the promotion and protection of human rights. The Secretary for Human Rights concluded by stressing the need to embrace human rights education as a human right in itself and to adopt and implement that right as a means of empowerment and as a source of inspiration for social change. She defined human rights education as the antidote to a culture of human rights violations and violence against individuals.

19. Elaborating on the role of national human rights institutions in mobilizing the relevant public and private actors for human rights education and potentially coordinating relevant initiatives, the Chair of the National Human Rights Council of Morocco highlighted the significance of education and training for guaranteeing respect for human rights and fundamental freedoms. He said that if a country had educated citizens who knew what their rights were, that would be a step towards democracy. As to how national human rights institutions could ensure the implementation of human rights education and, more specifically, the role that the National Human Rights Council had played in the field of human rights education in the country, he said that the Council had played a catalytic role as it had been engaged in many human rights education activities targeting children and youth, such as the development of materials, citizen clubs and related networks. The Council was currently evaluating the impact of those efforts with a view to expanding their coverage to larger parts of society. It also hoped to use the Internet to promote human rights education for youth, particularly with a view to combating the radicalization of young people and preventing violent extremism.

20. The Chair also highlighted the work of the National Institute for Human Rights Education in promoting the mainstreaming of human rights education initiatives and mechanisms across the country. A household survey had been conducted by the National Human Rights Council to determine public perception and knowledge about human rights in order to contribute to a better understanding of the culture of human rights by Moroccan citizens and to support the development of more inclusive human rights education programmes. The results of the survey would be analysed to identify priorities for a national strategy on promoting and improving the quality of human rights education.

21. The Secretary-General's Plan of Action to Prevent Violent Extremism (A/70/674) identifies human rights education and training as a strategy for preventing and addressing violent extremism. Regarding the experience of his organization in addressing the phenomenon, the Executive Director of the Centre for the Prevention of Radicalization Leading to Violence, Montreal, Canada, explained that the Centre worked with radicalized individuals and their families. Through that work, it was gleaned that the lack of human rights education was a central factor leading to radicalization. He stressed that the fight

against extremism needed to target all forms of extremism and adopt a multidisciplinary approach that addressed the main causes, such as lack of empathy and the inability to think critically.

22. The Executive Director emphasized that human rights education and tolerance were the best response to radicalization and violent extremism. He mentioned the efforts of the Centre to develop critical thinking skills and reintegrate individuals who were drifting away from society and emphasized that those strategies would be of little use if they were implemented without a strong human rights component. He highlighted the need to motivate young people to participate in democratic life; to sensitize them to human rights, civil liberties and discrimination issues; to foster attitudes and behaviour of openness and respect for diversity; and to facilitate action against discriminatory practices.

IV. Summary of the discussion

23. During the ensuing discussion, contributions were made by representatives of Argentina, Australia, Bolivia (Plurinational State of), Botswana, the Dominican Republic (on behalf of the Community of Latin American and Caribbean States), Ecuador, Greece, Indonesia, Kyrgyzstan, Morocco (on behalf of the International Organization of la Francophonie), Pakistan (on behalf of the Organization of Islamic Cooperation), Paraguay, Poland, Qatar, the Congo, the Russian Federation, Saudi Arabia (on behalf of the Gulf Cooperation Council), Slovenia, South Africa (on behalf of the African Group), Switzerland, Thailand, Timor-Leste (on behalf of the Community of Portuguese Language Countries) and Viet Nam, as well as the European Union.

24. Representatives of the Council of Europe and two human rights institutions, the Global Alliance of National Human Rights Institutions and the Danish Institute for Human Rights, contributed to the discussion.

25. Representatives of the following NGOs also took the floor: American Association of Jurists (on behalf of eight NGOs), International Organization for the Right to Education and Freedom of Education (on behalf of the NGO Working Group on Human Rights Education and Learning), Norwegian Refugee Council and Soka Gakkai International (on behalf of HRE2020 Global Coalition for Human Rights Education).

A. General observations

26. Several delegates emphasized that human rights education was a prerequisite for realizing all human rights. Human rights embody a set of values that guarantee respect for dignity and equality for all, and can only be exercised and protected if all people know them. In that regard, delegates highlighted the value of the United Nations Declaration for Human Rights Education and Training in articulating that "everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and … access to human rights education and training" (art. 1). They noted that the Declaration had played a very important role in highlighting the right to human rights education, and they welcomed the panel discussion as an excellent opportunity to reaffirm that right as well as the fundamental role of human rights education in the promotion, protection and effective realization of all human rights.

27. Human rights education is a lifelong process that concerns all ages and all parts of society at all levels. It develops the knowledge and skills of learners to promote, defend and apply human rights in their daily lives. Several delegates stressed the need for a sound methodology that was participatory, learner-centred, action-oriented and took into account different cultural contexts. A few delegates drew attention to the Declaration, which states that human rights education and training encompasses education about human rights, through human rights and for human rights, including learning and teaching in a way that respects the rights of both educators and learners (art. 2 (2)). The Declaration also called upon States to create a safe and enabling learning environment, in which the human rights and fundamental freedoms of all, including those engaged in the process, were fully protected (art. 7 (2)). Other delegates underlined the importance of evaluation, including the

development of related indicators, to assess the impact of human rights education programmes and improve accountability and effectiveness.

B. Role of human rights education in tackling current global challenges

28. Many delegates pointed to the role of human rights education in tackling global challenges, including discrimination, violent extremism and conflict. Recent events, such as the movement of migrants and refugees, highlighted the value and relevance of the Declaration, and human rights education could be an integral solution to many human rights challenges facing humankind today. In particular, several delegates highlighted the role of human rights education in protecting groups in situations of vulnerability, including migrants and refugees, and stressed the need for human rights education to be made available to those most at risk, including migrants, refugees and particularly children and youth who were affected by conflict and natural disasters. For example, in response to the unprecedented movement of half a million migrants and refugees through Slovenia, in 2015, some 40,000 children in Slovenia received education on the rights of refugee children.

29. Several delegates emphasized the contribution of human rights education to the prevention of radicalization and violent extremism. Human rights education did not only teach about human rights instruments and their content, but it made people aware of how to promote, defend and apply human rights in their lives and in their interactions with others. Therefore, people who understood, appreciated and respected human rights were more likely to find peaceful solutions to an ongoing or potential conflict. In that regard, human rights education promoted tolerance, inclusion, participation and mutual acceptance, and hence reinforced understanding of the diversity of human societies. Moreover, human rights education fostered a culture of human rights and developed more inclusive, tolerant and peaceful societies, thus ultimately contributing to the promotion of global peace and security.

30. Some delegates highlighted specific national and regional initiatives to integrate human rights education in efforts to prevent violent extremism. For example, Switzerland adopted a Foreign Policy Action Plan for the Prevention of Violent Extremism, which is based on the recommendations of the Secretary-General's Plan of Action to Prevent Violent Extremism and contains action points for human rights education and training. The European Union included human rights education in its Action Plan on Human Rights and Democracy (2015-2019) with the aim of ensuring a comprehensive human rights approach to conflicts and crises. It would be willing to offer assistance to further that approach beyond the Union.

31. Several delegates mentioned that human rights training for media professionals and journalists played an important role in addressing the problem of radicalization. Media professionals could contribute to positively influencing youth who were at risk of being radicalized, especially in the light of the fact that the Internet and digital technologies were often used in the radicalization of youth. Not only should youth be taught about human rights principles, but they also needed to build their capacities to recognize manipulation. The private sector could play an important role in educating youth and in training media professionals.

C. Role of human rights education in achieving sustainable development

32. A large number of delegates considered the 2030 Agenda for Sustainable Development a positive step towards the promotion and protection of all human rights, as it recognized the catalytic role of human rights education in achieving all of the Sustainable Development Goals. Target 4.7, in particular, aims to ensure inclusive and equitable education and promote lifelong learning for all, highlighting the need for all students to acquire the knowledge and skills needed to promote sustainable development. The adoption of the 2030 Agenda and, in particular, target 4.7, would further provide momentum for the implementation of the World Programme for Human Rights Education.

33. Some delegates highlighted the need for human rights education and training programmes to be implemented within the context of the 2030 Agenda and for linkages to be built between human rights education programmes and the Sustainable Development Goals to ensure complementarity and coordination at all levels. The Minister of Education of Costa Rica urged States to ensure cooperation in order to improve the potential for innovative ideas and the achievement of the Goals, and stated that the Government of Costa Rica was committed to adopting an integrated approach to achieving the Goals so as to bring together the efforts of local and international actors. The Secretary for Human Rights of Brazil stated that human rights education was essential for the implementation of the 2030 Agenda, which pledges to promote inclusive and just societies, and that international cooperation was a key element for fostering the necessary dialogue between global, regional and local spheres. The representative of the European Union stated that human rights education was key for development and crucial for building inclusive and participatory societies based on social justice and solidarity. The Global Alliance of National Human Rights Institutions highlighted the key role that national human rights institutions could play in the monitoring and data-collection processes relating to target 4.7 of the Sustainable Development Goals.

D. National human rights education and training

34. Delegates drew attention to the significance of the United Nations Declaration on Human Rights Education and Training in reaffirming the duty of States to promote human rights education. The representatives of many States highlighted national human rights education initiatives and programmes, in particular in the context of the third phase of the World Programme for Human Rights Education, which focuses on strengthening the implementation of human rights education in primary and secondary school systems and in higher education; human rights training for teachers and educators, civil servants, law enforcement officials and the military; and promoting human rights training of media professionals and journalists. They stressed the need for all States, together with the international community, to take full advantage of the third phase of the World Programme, and expressed their readiness to share national experiences and tools and to provide assistance.

35. The representatives of many States described their experiences in relation to national human rights education programmes and initiatives in primary and secondary schools. For example, the representatives of Ecuador, Indonesia, Kyrgyzstan, Paraguay, the Congo, the Russian Federation, Switzerland, Thailand and Viet Nam mentioned that their Governments had included human rights education in their school systems. Paraguay had a National Human Rights Education Plan that outlined a nine-year strategy for transforming the public education system in the country. In Kyrgyzstan, human rights education started in preschool, with a programme called "Learning the Environment", which provided all children with an "equal start in life" by teaching them about their human rights and responsibilities in interacting with their peers and with adults. This was followed by mandatory courses on human rights principles and protection mechanisms in secondary school. In Switzerland, education for sustainable development and human rights had been integrated into regional school curricula. Through the "Our Rights" project developed by the Government of Slovenia, which was based on the Convention on the Rights of the Child, since 2005, more than 185,000 children in 26 countries had learned about their rights. Teaching materials of the project were now available in 22 languages.

36. Universities in Kyrgyzstan, the Russian Federation, Thailand and Viet Nam had also integrated human rights into their curricula as stand-alone courses and in courses on political science, law, humanities and civic values. In Kyrgyzstan, introductory training on human rights was mandatory for those pursuing careers in education. Pursuant to the National Education Act (1999), universities in Thailand had not only increased the number of human rights courses they offered to students, but had also established research centres on human rights. In the Russian Federation, a consortium of Russian institutions for higher learning, in collaboration with OHCHR, offered a Master's programme on human rights.

37. The representatives of several States, including Ecuador, Greece, Kyrgyzstan, the Congo, the Russian Federation and Qatar, highlighted the human rights training programmes for civil servants, law enforcement officials and the military. In Ecuador, human rights had been mainstreamed into the professional training of the entire public sector. Human rights were a core element of the mandatory training of civil servants in Greece: specialized training on intercultural issues was provided to civil servants dealing with third country nationals, police officers were trained on various human rights issues, including human trafficking, combating violence against women, racism, xenophobia, torture and the use of personal data, and border guards must undergo mandatory human rights training, particularly in the light of the recent migration crisis. In Indonesia, the fourth National Action Plan on Human Rights (2015-2019) had enabled the inclusion of human rights into the professional training of police and military officers. The new Constitution (2015) of the Congo guaranteed the human rights of groups in situations of vulnerability. The Government had implemented public-awareness programmes and developed a capacity-building programme for law enforcement officers on the human rights of those groups, including indigenous peoples. In Kyrgyzstan, human rights training was regularly delivered to law enforcement officials and the judiciary, as well as ministries and agencies directly involved in the promotion and protection of human rights.

38. With regard to human rights training of media professionals and journalists, delegates from a few States, including the Plurinational State of Bolivia, Thailand and Viet Nam, highlighted the importance of not only providing training on human rights issues, but also engaging media professionals and journalists in the implementation of human rights education programmes, particularly public-awareness campaigns. In Costa Rica, for example, the media played a pivotal role in successfully implementing a public-awareness campaign against bullying in schools.

39. Several delegates highlighted initiatives undertaken by their Governments in conducting research on human rights education and training and developing and disseminating related resources and materials. For example, Argentina established a human rights institution to develop and disseminate capacity-building tools, including human rights materials for children and youth; Poland created an online database of educational materials on democratization, human rights and civil society for use by students and educators; and the Regional Rights Resource Team in Australia provided policy advice, technical support and training services to Pacific Island countries in relation to human rights priorities and treaty reporting. The Resource Team had contributed to a steady shift towards a deeper culture of human rights in the Pacific and had supported the development of human rights advocates in governments and civil society. In Qatar, the Doha-based United Nations Human Rights Training and Documentation Centre provided human rights training and documentation activities in the Western Asia region for various actors, including civil servants, law enforcement agencies and national human rights institutions.

40. Delegates from Australia, Botswana, Thailand and the Global Alliance of National Human Rights Institutions drew attention to the important role of national human rights institutions in promoting effective policies and programmes on human rights education and training. National human rights institutions not only implemented related programmes, but also supported coordination and cooperation among various stakeholders, gave advice to parliamentarians and education authorities and monitored the implementation of human rights education. For example, the High Commissioner for Human Rights in the Russian Federation developed studies and resources, delivered lectures in schools and institutes of higher learning and organized competitions and conferences on various human rights issues; the Australian Human Rights Commission implemented human rights education programmes on anti-discrimination and the rights of minorities, thus contributing to the efforts of the Government to build a culture of peace; and the Ministry of Education of Denmark had invited the Danish Institute for Human Rights to engage as a key adviser on education reform, curricula development and human rights education. The Institute had documented the status of human rights education in the areas covered by the three phases of the World Programme for Human Rights Education and engaged in dialogue with the public authorities that resulted in the mainstreaming of human rights into the curriculum of Danish schools and in teacher training programmes. Some States, such as Honduras, Morocco and the Philippines, had benefited from the expertise and the independent and

strategic role of national human rights institutions in implementing human rights education at the national level.

41. A number of delegates highlighted the challenges of implementing human rights education and training programmes and initiatives, including the lack of resources to implement, evaluate and report on programmes to the various international mechanisms. In response, the panellists highlighted the need for greater coordination among the various stakeholders, including national human rights institutions, civil society and international organizations. They also urged that national commitments to the importance of human rights education should be backed by the allocation of sufficient resources.

E. International and regional efforts to promote human rights education and training

42. Several delegates stressed that the United Nations Declaration on Human Rights Education and Training, the World Programme for Human Rights Education and other education-related global initiatives — culminating in target 4.7 of the 2030 Agenda for Sustainable Development — reflected a growing consensus among the international community on the fundamental role of human rights education in the realization of all human rights. They highlighted the need for regional and international cooperation and assistance. Intergovernmental organizations, national human rights institutions, civil society and other relevant actors should collaborate closely in order to maximize resources, avoid duplication and ensure coherence in the implementation of human rights education programmes, particularly in the context of the World Programme. The NGO Working Group on Human Rights Education and Learning proposed to reinforce an existing institution with the aim of strengthening synergies among initiatives of the United Nations system, other intergovernmental organizations and governments.

43. A number of delegates highlighted the importance of systematically including information on national progress in the area of human rights education in reports to the United Nations human rights treaty bodies and in the context of the universal periodic review. They stressed the role of the treaty bodies, special procedures and the universal periodic review in encouraging and reviewing national human rights education and training efforts and in providing related advice. The important contribution of civil society to the work of those mechanisms in the area of human rights education was also highlighted.

44. Some delegates referred to regional instruments and initiatives relating to human rights education. The Council of Europe expressed its commitment to engage with the international community to share information and coordinate activities on human rights education, particularly in the framework of its Charter on Education for Democratic Citizenship and Human Rights Education. The 2000 Bamako Declaration of the International Organization of la Francophonie is a joint commitment to promote and foster human rights, democracy and peace through related education and awareness-raising programmes. In particular, the Organization, in collaboration with the Francophone Association of National Human Rights Commissions, produced a number of resources, including a guide and an online course for teachers and educators in the context of its "Free Together" initiative, aimed at promoting a culture of human rights, peace and tolerance among youth. The representative of the European Union mentioned the work of the European Instrument for Democracy and Human Rights, which had recently launched a call for proposals amounting to more than €31 million to support civil society organizations working towards the protection and promotion of human rights and fundamental freedoms worldwide, including through human rights education and training.

45. Some delegates commended the Platform for Human Rights Education and Training, a cross-regional group consisting of Brazil, Costa Rica, Italy, Morocco, the Philippines, Senegal, Slovenia, Switzerland and Thailand, on its work in promoting human rights education and training in the Human Rights Council. The work of OHCHR and UNESCO in supporting the national implementation of human rights education and training was also acknowledged.

V. Conclusions

46. The high-level panel discussion provided an opportunity to take stock of human rights education and training efforts and to address related issues five years after the adoption by the General Assembly of the United Nations Declaration on Human Rights Education and Training.

47. The role of human rights education and training in realizing human rights was stressed by all the participants, and educators and trainers should adopt sound educational methodologies that are participatory, learner-centred, action-oriented and take into account cultural contexts.

48. Human rights education and training is an effective strategy for preventing and tackling current global challenges, including violent extremism and conflict, as it proposes solutions in line with human rights standards. The training of media professionals and youth are priorities in this regard.

49. The adoption of the 2030 Agenda for Sustainable Development, which specifically includes human rights education under target 4.7, provides a momentum for furthering human rights education, in line with the United Nations Declaration on Human Rights Education and Training and other existing global frameworks for action, including the World Programme for Human Rights Education, coordinated by OHCHR, and the UNESCO Global Citizenship Education programme as well as other intergovernmental work relating to instruments, such as the 1974 UNESCO Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms and international human rights treaties. Synergies in related work at the national and international levels need to be promoted.

50. Experiences shared during the panel discussion highlighted the value added of, and the need for, close collaboration and coordination among national actors, such as government agencies, national human rights institutions and civil society, including non-governmental organizations, academia, the media and the private sector.

51. In her concluding remarks, the moderator stated that the panel discussion highlighted the extraordinary advancement in human rights education and training since the adoption of the United Nations Declaration on Human Rights Education and Training. She expressed appreciation for the commitment conveyed by all participants to strengthening the implementation of human rights education and training at the national, regional and international levels.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the panel discussion on youth and human rights

Report of the United Nations High Commissioner for Human Rights

Summary

The present report was prepared in accordance with resolution 32/1 of the Human Rights Council, in which the Council decided to convene a panel discussion on youth and human rights, and requested the United Nations High Commissioner for Human Rights to prepare a report thereon. The panel discussion, organized by the Office of the United Nations High Commissioner for Human Rights, was held on 22 September 2016, at the thirty-third session of the Council.

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I. Introduction

1. In its resolution 32/1, the Human Rights Council decided to convene at its thirty-third session a panel discussion on youth and human rights. It requested the United Nations High Commissioner for Human Rights to liaise with States and all stakeholders, including relevant United Nations agencies, funds and programmes, the treaty bodies, the special procedures of the Human Rights Council, national human rights institutions and civil society, including representatives of youth organizations, with a view to ensuring their participation in the panel discussion.

2. The interactive panel discussion was chaired by the President of the Human Rights Council and moderated by the Permanent Representative of Greece to the United Nations Office and other international organizations in Geneva. The United Nations Deputy High Commissioner for Human Rights delivered an opening statement, after which a video statement by the Envoy of the Secretary-General on Youth was screened. The panellists were a member of the Committee on Economic, Social and Cultural Rights, the President of the European Youth Forum, a representative of the Asociación Tierra de Jóvenes, El Salvador, a representative of the International Volunteerism Organization for Women, Education and Development (VIDES International) and the Head of the Social and Human Sciences Sector, Multisectoral Regional Office for Central Africa, Yaoundé, of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

3. Following the panellists' brief opening remarks, the representatives of States, national human rights institutions and non-governmental organizations and other observers were encouraged to intervene by asking questions, making comments and sharing good practices, challenges and recommendations on the way forward. The panel discussion provided a platform for experts and representatives of stakeholders to identify challenges, best practices and lessons learned in the exercise of human rights by young people, and relevant opportunities for the empowerment of young people in the exercise of their rights.

II. Opening remarks

4. In her opening remarks, the Deputy High Commissioner said that the combination of current demographic realities and the pace of global change made young people the generation of our time, and the sustainable development generation. There were currently 1.8 billion young people worldwide, the most the world had ever seen, meaning that there could be no sustainable development without them and no sustained development if not for them. Young people were currently three times more likely to be unemployed, with 73 million of them looking for but not finding employment; when they did find work, they laboured in far more precarious conditions than adults, in the absence of equal pay for equal work. Some 27 million young people were migrants: far from their homes, travelling sometimes unaccompanied, often precariously, in flight from a life they believed they could not sustain and in search for a life of security and improved standards of living.

5. Young people under the age of 30 constituted 43 per cent of all homicide victims. Sexual violence disproportionately affected young girls and women, and complications in pregnancy and childbirth were the second biggest killers of adolescent girls in developing countries, despite being largely preventable. Every year at least 3 million girls aged 15 to 19 underwent unsafe abortions. Globally, adolescents were the only age group for whom deaths due to AIDS had increased, by about 50 per cent between 2000 and 2015, in contrast with a 32 per cent decrease among other age groups in the same period. Globally, relative poverty and lack of opportunity was a disproportionate and particular challenge for young people. In Niger, the average age was 15, in South Sudan, 17 and in Nigeria and Yemen, 18. The demography of relative privilege was much older and ageing; the average age in Denmark was 41, in Austria, 44 and in Germany and Japan, 46. There was a need for more inclusive engagement with the largest generation of potential, in terms of energy, creativity, passion and talent to which the world had ever had access, and yet, around the world, only 1.65 per cent of parliamentarians were in their 20s, and the average age of parliamentarians

globally was 53. Young people currently, despite being the most interconnected, most educated and healthiest generation, was also the generation at the gravest risk of being left far behind. As the economic and social histories of countries that experienced a rapid development curve after the Second World War proved, investing in young people and reaping the demographic dividend of young populations was of benefit to all.

6. The current needs of the world's adolescents and young people were significant, including for schooling and higher education, life skills and vocational training, meaningful employment, safe homes, protection from violence and exploitation and for personal autonomy and decision-making about their bodies. Yet underpinning those needs and central to the assignment of responsibility for meeting those needs were their rights. Violations of their rights were the gravest threats to young peoples' and adolescents' well-being; the denial of their rights exacerbated vulnerability and entrenched inequality, and the violation and denial of certain rights, including sexual and reproductive rights, also derailed the realization of multiple other rights, such as the rights to education, employment and political participation. The priorities for action were clear. There was a need to: (a) ensure robust civic registration, including of births, marriages and causes of death, as those were the building blocks of legal personhood; (b) remove laws and tackle cultural norms that impeded young people's personal progress; (c) end child marriage in law and in practice; (d) give boys and girls unfettered access to comprehensive sexuality education; (e) keep adolescents in school or keep them in education; and (f) build opportunities for them to keep learning and to bridge them back into learning. Adult behaviour and double standards in many cases impeded the dignity of young people, and a child's safe passage from birth to adulthood was not the child's responsibility, it was that of adults. Sharing political, economic and social space, assets and opportunities with young people was a priority, while building stable platforms for ongoing intergenerational dialogue.

7. In his video address, the Envoy of the Secretary-General on Youth noted that the adoption of the Human Rights Council resolution on youth and human rights was an opportunity to bring youth issues to the Council in a systematic and meaningful way. While the current generation of youth was the largest the world had ever known, significant gaps remained in human rights protection for young people, including access to political rights, the right to seek health services and the right to education. Lack of participation and opportunity isolated people, with adverse consequences for communities and societies. There had been many positive developments on the youth agenda globally in recent years. The Security Council had adopted resolution 2250 (2015) recognizing the positive role of young people in peacebuilding and preventing violent extremism. The Addis Ababa Action Agenda of the Third International Conference on Financing for Development recognized that investing in children and youth was critical to achieving inclusive, equitable and sustainable development, and the United Nations Economic and Social Council had been holding a youth forum since 2012. Young people worldwide had been involved in developing the Sustainable Development Goals, which reflected their voices and calls, and youth development was a common feature of the 17 Goals.

8. Additional developments included the World Humanitarian Summit, held in Istanbul, Turkey, in 2016, and the Compact for Young People in Humanitarian Action, which had been launched at the summit. Young people had also been involved in the preparations for and during the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in Paris in 2015, and the Third United Nations World Conference on Disaster Risk Reduction, held in Sendai, Japan, in 2015. The global youth movement had made great efforts in the past few years to ensure that youth issues were taken seriously on all fronts and that youth issues featured prominently in all of those processes. There were two more opportunities in 2016: the present panel discussion on youth and human rights, and the Forum on Human Rights, Democracy and the Rule of Law, to be convened for the first time by the Human Rights Council in November 2016. Together, the international community could widen the democratic space by strengthening youth participation and promoting young people's rights. It was high time to define procedures and instruments that would ensure the systematic inclusion and review of the question of their rights in the work of the Council.

III. Overview of the presentations by the panellists

9. The moderator said that the aim of the panel discussion was to identify challenges and best practices in the exercise of human rights for young people. Currently, youth made up the largest young generation the world had ever known. The many challenges faced by young people required efforts on the part of the international community and all stakeholders. Young people should not and could not be left aside, and should be recognized as a key driving force for the future. Emphasis was needed on quality education, decent employment and the ability to exercise active citizenship in order to make young people feel an integral part of society; they should be given more opportunities to express their views on social and political issues, and more forums should be organized to that end at both the national and international levels. Empowering youth was an undeniable obligation of everyone in the Human Rights Council, and ensuring the enjoyment of young people's human rights was the most important legacy that could be left for generations to come.

10. The member of the Committee on Economic, Social and Cultural Rights stressed that the International Covenant on Economic, Social and Cultural Rights had strong cross-cutting anti-discrimination provisions and contained explicit and implicit provisions for young people. There were measures to protect and assist all children and young persons without discrimination, including from economic and social exploitation. Articles 13 and 14 on the right to education were entirely dedicated to children and young people, important elements being the obligation on States parties that had not been able to do so prior to becoming parties to the Covenant to guarantee the progressive implementation of the principle of compulsory education free of charge for all, and measures to make education accessible to all. The implicit Covenant provisions to enhance economic and social rights, reflected in the Committee's reporting guidelines to States parties, addressed employment, technical and vocational training, social services to support families, improvement of child and maternal health and prevention and rehabilitation in the context of alcohol, tobacco and drug abuse.

11. Recurrent challenges to the exercise of human rights by young people included difficulties in accessing the job market, even for highly qualified young people, and youth unemployment rates that were much higher than those of adults; inadequacies in education and skills training, particularly in rural areas, leading to an influx of youth into urban areas; a lack of access to health-care services, including for sexual and reproductive health; and the ineffectiveness of the schooling system, which led to high dropout rates and low levels of literacy. Young girls and women were often at a disadvantage in comparison to men, whether in relation to education, participation in the labour market or poverty in general, due to their unequal access to resources, goods and services. In addressing those challenges, States should enact legislation to combat all forms of discrimination, adopt and implement long-term policies with effective monitoring and evaluation mechanisms, implement targeted measures for the promotion and protection of the rights of specific groups of young people that faced particular difficulties and provide goods and services that were accessible, affordable and of high quality.

12. She shared suggestions to strengthen the human rights framework for young people, and noted that while the normative framework was relatively comprehensive, implementation, monitoring and information gaps underpinned the lack of fulfilment of rights for young people. She encouraged States to adopt and implement policies and programmes for the promotion and protection of the rights of young people, and to provide adequate information in their reports to treaty bodies on measures taken, using statistics and disaggregated human rights indicators, so that the treaty bodies could engage in meaningful dialogue with States in that regard, including by making specific recommendations. She recommended that organizations led by or focused on young people should engage with other interested stakeholders to raise the visibility of the human rights framework at the national level, and contribute to the efforts of non-governmental organizations by submitting to the treaty bodies alternative reports on the implementation of human rights. In their efforts to connect and work with young people, States should be guided by their

potential to champion not only their own rights, but also those of disadvantaged and marginalized groups.

13. The President of the European Youth Forum welcomed the initiative to convene the panel discussion taken by the Human Rights Council and expressed hope that the Youth Forum would be able to work with the Council in changing the realities for young people in the world. She noted that more than 500 million young people aged between 15 and 24 lived on less than $2 a day, and that some 126 million young people were illiterate. She also noted that, according to estimates by the International Labour Organization, in 2016 more than 40 per cent of the world's active youth population was expected to be either unemployed or living in poverty despite being employed. She noted that youth affected by migration were particularly vulnerable to human rights violations. In their daily lives, young people encountered multiple discrimination based on their age, gender, disability, ethnic origin, religious beliefs, sexual orientation and gender identity, and young people were often shut out of politics or criminalized for speaking out. She emphasized that the current generation of young people, in spite of being the largest, perhaps the most highly educated, technically advanced and mobile generation in history, was being left behind due to a lack of political will.

14. Recognizing that young people were being denied their rights due to age-based discrimination, it was time to act for youth. Specific points for action included: (a) comprehensively defining the realities and obstacles young people faced in claiming their rights by preparing a report mapping those obstacles; (b) establishing a special procedure on the human rights of young people; (c) requesting the Office of the United Nations High Commissioner for Human Rights, in cooperation with youth-focused United Nations stakeholders, to develop guidelines directing States in implementing a rights-based approach to youth policies; (d) urging the Council to invite all treaty bodies to develop a joint general comment or statement on youth, thus underlining the indivisibility of all human rights for young people; and (e) mainstreaming youth rights in existing human rights mechanisms, such as addressing them through the universal periodic review by involving youth organizations in national consultations and giving visibility to the submissions made by youth organizations.

15. The representative of the Asociación Tierra de Jóvenes said that a young person living and working on the streets in El Salvador would, as a result of being recognized as an adult on turning 18, suddenly lose their access to several social protections provided by institutions only to those under 18 years of age. A large number of young people living on the streets were taken to institutions, but when they no longer qualified for that support at the age of 18 and were released, many of them were recruited by notorious Central American gangs within two years. Furthermore, adults tried to take advantage of them due to their ignorance, lack of resources and inability to defend themselves. For example, a young windscreen washer renting a room could pay as much rent as a middle-class family renting a house, due to financial need and the requirement to pay a premium amount on a daily instead of a monthly basis. Many such young people remained employed in the informal sector, due to the low wages and poor treatment experienced in formal sector jobs, and as a result of their lack of social contacts, which were often necessary to gain decent formal sector employment.

16. Young people wanted justice, but many of them were marginalized and did not have the opportunity to seek justice. There was a need to eradicate corruption in the judiciary, and for a fairer society in which human rights were respected. There was a lack of coordination among institutions established to assist young people and protect their rights, and their efforts were often insufficient or duplicated. He called upon States to help create mechanisms for the coordination of organizations advocating for the protection of human rights at the national level, both within and beyond El Salvador. Young people's access to services needed to be facilitated and improved in order to protect and fulfil their human rights. There was a need for change that was for young people and driven by young people. At 25 years old himself, he shared his story of empowerment through volunteering, and called upon States to recognize the value of efforts aimed at empowering young people. Governments should understand that young people asking for their human rights were not

the enemy; quite the contrary, they were positive actors who would not rebel if their rights were guaranteed, empowering them to become positive drivers of change.

17. The representative of VIDES International said that the organization aimed to promote active citizenship among young people and to enable them to become promoters of development, democracy and peace in 42 countries. While efforts continued to ensure the human rights of many vulnerable groups, young people were often left aside in human rights-based policies and interventions. Even worse, they were perceived as the emblem of problems and the cause of tensions both at the local and global levels. Conversely, the impulse to change the status quo was intrinsic to youth and constituted the potential of young people to bring about social change and strengthen human rights in the form of greater justice, transparency and participation.

18. The current reality for many young people was a lack of adequate opportunities, particularly in education and employment. There was general distrust in the rule of law and institutions, which resulted in political disengagement, and in some cases, in young people engaging in violence or extreme politics. The difficulties young people experienced in the enjoyment of their human rights affected not only youth, but also had a strong detrimental effect on society at large. Access to quality education was a major challenge since lack of education affected not only labour, but also the exercise of citizenship by young people and in the long term, durable peace and reconciliation. Youth participation was also a priority; it was important to recognize young people as citizens to be valued and taken into account, especially in decisions affecting them and future generations.

19. At the international level, she recommended: (a) mainstreaming youth rights through existing United Nations mechanisms, such as the universal periodic review and the treaty bodies; (b) issuing a joint general comment or statement by treaty bodies on the application of relevant United Nations treaties to the particular situation of youth; (c) establishing a special procedure on youth to monitor and assess young people's enjoyment of human rights; and (d) ensuring that youth rights remained on the agenda of the Council by requesting a report by the Advisory Committee or the Office of the High Commissioner.

20. The Head of the Social and Human Sciences Sector of the UNESCO Multisectoral Regional Office for Central Africa in Yaoundé said that in Africa, young people constituted on average up to 50 per cent of the population, and up to 65 per cent in some countries. The expansion of the youth population over the past 25 years had resulted in challenges in education, training and employment, and youth population growth was expected to continue to increase rapidly in the decades to come. Yet the youth population of Africa was also the continent's greatest asset, and a number of important political and programmatic initiatives had been put in place to address the youth population and the human rights of young people. Under international instruments on human rights, it was clear that the enjoyment of human rights was an inalienable right of all young people, and that their human rights should be fully realized. In many African countries, however, that remained a pious hope.

21. The challenges facing young people were multifarious; unemployment was a destabilizing factor; gender violence, including sexual violence, was a violation of human rights; the spread of terrorism led to a rise in the risk of radicalization in terms of religious and ideological terms; and there was an overall lack of or weakness in policies for young people. The youth of Africa also faced challenges in terms of poverty, climate change and ethnic and religious conflict, and many countries were undergoing demographic change and poorly managed democratic transitions. Young people were killed and tortured by the armed forces and police of their own Governments, particularly in pre- and post-election periods.

22. UNESCO considered young people as the holders of both responsibilities and rights and sought to create and maintain an environment in which young people could exercise their rights and responsibilities, flourish as human beings, be heard and participate as valued stakeholders and holders of knowledge in specific fields. It was time to step up investment in policies and programmes based on human rights so that young people could be responsible social innovators; a human rights culture was indispensable in that regard, within and beyond education systems. Over the past 10 years, there had been increasing awareness among African youth who were requiring that the rule of law be guaranteed and

upheld. She recommended that studies should be conducted to gather disaggregated data on the specific needs and challenges faced by young people, that the African Youth Charter should be applied effectively by member States of the African Union, and that there should be reporting on compliance with human rights mechanisms, conventions and treaties at all levels.

IV. Summary of the discussion

23. In the ensuing discussion, contributions were made, in the following order, by representatives of: Australia, speaking also on behalf of Canada and New Zealand, the Dominican Republic on behalf of the Community of Latin American and Caribbean States, the Philippines on behalf of the Association of Southeast Asian Nations, the European Union, Canada on behalf of the International Organization of la Francophonie, Brazil on behalf of the Community of Portuguese-speaking Countries, the Sudan on behalf of the Group of Arab States, Portugal, Georgia, Brazil, El Salvador, Bosnia and Herzegovina, Austria, Italy, Namibia, Greece, Bangladesh, the United States of America, Israel, the Organization of Islamic Cooperation, the Council of Europe, Romania, Egypt, the Republic of Korea, Pakistan, Libya, Indonesia, Spain and Maldives.

24. Representatives of the following national human rights institutions and non-governmental organizations contributed to the discussion: the Australian Human Rights Commission, the World Young Women's Christian Association, the World Alliance for Citizen Participation (CIVICUS), the Commissioner for Human Rights of the Russian Federation, Action Canada for Population and Development, Save the Children International, and Rencontre africaine pour la défense des droits de l'homme.

25. Delegates reaffirmed their commitment to the inclusion of young people as rights-holders, and to the promotion and protection of young people's human rights. Many delegations drew attention to their countries' large youth populations and the growing challenges that disproportionately affected the current generation of young people, including unemployment and a lack of decent work for young people, social exclusion, the impacts of the economic crisis, inadequate education and opportunities, political marginalization, climate change and intergenerational inequality. Delegations highlighted the risks associated with growing youth populations whose rights were not realized, including the potential for politically disengaged or disenfranchised youth to contribute to instability, conflict and violence.

26. Nonetheless, many delegations viewed young people as essential to the realization of economic and social progress. They drew attention to the crucial role young people played in realizing human rights, peace and sustainable development, particularly when they were empowered to contribute positively in those respects. Others stated that it was important to enable young people to contribute to addressing major global challenges through active and meaningful participation in politics, sustainable development efforts and decisions affecting them. Several delegations highlighted the need to strengthen specific programmes to promote and protect the rights of young people, particularly in relation to education, employment and human rights awareness-raising. One delegate noted that businesses should become more involved in that regard, for example through improved vocational training, and another asked how the Council could contribute to youth empowerment in the context of the 2030 Agenda.

27. Some delegates highlighted the diversity of youth, and emphasized that some young people from marginalized groups or those in situations of vulnerability needed targeted policies and protection in order for their rights to be realized. One delegate noted that, while young people shared many common experiences, their diversity should also be celebrated and their different voices and engagement strengthened. Another pointed out that young people were particularly vulnerable to becoming victims of violence as a result of armed conflicts worldwide, and that the reduction of armed conflict through youth empowerment should be a priority for all States.

28. Several delegations highlighted the policies that they were implementing in order to fulfil the rights of young people and create opportunities for them. Most delegations felt

that young people should be partners in development by contributing new ideas and participating in measures to promote positive change in society, particularly with regard to sustainable development, conflict prevention and the realization of human rights.

29. Representatives of non-governmental organizations and national human rights institutions drew attention to examples of the violation or denial of the rights of children and young people. One national human rights institution raised the issue of the abuse of children in detention, stressing the importance of the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. One non-governmental organization noted that in more than 100 countries, freedom of expression and freedom of assembly were under threat. Nonetheless, a number of countries had taken measures to facilitate youth participation in public affairs, with 131 countries around the world having established national youth councils, although they remained limited in their funding and political influence.

30. Non-governmental organizations highlighted the imperative for all States to integrate the rights of children and young people throughout national policies and programmes. One pointed out that young people had little guidance or knowledge on how to follow the work of human rights bodies and promote human rights in their countries, and called upon Member States and the Council secretariat to create more youth-friendly mechanisms and platforms to engage and empower young people in human rights processes. They drew attention to the importance of the 2030 Agenda as an opportunity to advance the rights of young people, but noted that in order for it to be successful, young people must play an active role throughout the 2030 Agenda implementation and review processes.

V. Conclusions

31. **The panellists emphasized that many issues raised in the discussion were connected to poor governance and persistent challenges to ensuring peaceful political transitions. Young people were demanding participation, justice and respect for the rule of law. It was essential to recognize that policy choices contributed to the challenges experienced by young people, such as poverty and unemployment, and that young people could play a range of roles in society: as positive agents of change, victims of human rights violations or even perpetrators of violations. Good governance and democracy were essential to bringing about positive outcomes for young people.**

32. **Regarding the role of the Human Rights Council for youth empowerment, panellists highlighted the need for more substantial information on the role of youth and for young people themselves to have more information about the legal aspects of the human rights framework. In order to support the mainstreaming of the rights of young people and to ensure that Governments were responsive to young people who were deprived of their rights, efforts should be made by Member States to systematically consult young people, including in the drafting of submissions to the universal periodic review.**

33. **Panellists emphasized the importance of involving young people in resolving conflicts in schools. For example, in Colombia there had been a successful initiative to reduce school violence whereby every young person had a role in the school, which operated like a city with a mayor and a cabinet. When violence did occur, young people were trained to act as mediators and to resolve disputes. Due to the success of that participatory approach to reducing violence, the initiative was being adapted to the situation in France. With respect to youth participation, young people should be taught about human rights in a way that was appropriate to their age group.**

34. **One panellist welcomed the fact that the forthcoming Forum on Human Rights, Democracy and the Rule of Law would focus on the rights of young people, and encouraged States to include youth representatives in their delegations and to ensure the participation of youth organizations in the Forum. It was important for Member States to take action on the issues raised in the panel discussion, including by way of a**

report on the obstacles young people faced in accessing their rights. Guidelines should be made available to States on a human rights-based approach to youth policies, and the voices of young people and their organizations should be taken into account in the universal periodic review. Furthermore, a joint statement should be made by the human rights treaty bodies on the rights of young people.

35. Panellists recalled that relevant national measures and policies concerning youth must be in line with international human rights standards, including with regard to the accountability of duty bearers. It was important to ensure that young people were actually listened to, as token participation did not enable the building of citizenship. There was not a gap in the human rights framework, but rather shortfalls in implementation and monitoring. Steps were needed to strengthen and coordinate existing efforts in that respect.

36. The moderator concluded the discussion, noting that the challenges that young people faced were multifaceted and required integrated, comprehensive responses from States, international organizations and other stakeholders. The panel discussion had demonstrated that the protection and promotion of young people's rights and well-being must be among the international community's highest priorities. Young people faced many challenges, including a lack of respect for their rights to life, health, education and freedom of conscience, and discrimination on the grounds of sexual orientation, in addition to a lack of employment and adequate education. States had both a practical imperative and a moral obligation to pay greater attention to the issues facing youth and to work with them to define concrete measures to address those challenges.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Impact of arms transfers on the enjoyment of human rights

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

In its resolution 32/12, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights to prepare a report, in consultation with States, United Nations agencies and other relevant stakeholders, on the impact of arms transfers on the enjoyment of human rights, and to present it to the Council at its thirty-fifth session, in order to provide States and other relevant stakeholders with elements to assess the relationship between arms transfers and human rights law that may guide them to strengthen efforts to effectively protect human rights. The present report is submitted pursuant to that request.

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I. Introduction

1. In its resolution 32/12, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a report on the impact of arms transfers on the enjoyment of human rights in order to provide States and other relevant stakeholders with elements to assess the relationship between arms transfers and human rights law that may guide them to strengthen efforts to effectively protect human rights.[1]

2. In preparing the report, OHCHR sought input from Member States, international and regional organizations, national human rights institutions and non-governmental organizations.[2] In addition to containing information received from these entities, the report draws on a diverse range of public sources, including from United Nations human rights mechanisms and reports by scholars, practitioners and civil society organizations.

3. In the report, OHCHR first highlights some key aspects of the impact of arms transfers, including the potential or actual use of transferred arms, on the enjoyment of human rights before setting out the relevant international and regional law framework. It then suggests elements that may be used by States and other stakeholders to assess the relationship between arms transfers and human rights, including in the context of the human rights risk assessments that should be carried out pursuant to article 7 of the Arms Trade Treaty and regional arms transfer instruments.

II. Impact of arms transfers on the enjoyment of human rights

4. In resolution 32/12, the terms "arms" and "transfer" are used without qualification.[3] In paragraph 1 of the resolution, the Council expressed deep concern that arms transfers, particularly those that are illicit or unregulated, may seriously undermine the human rights of individuals.

5. Arms transfers and the potential or actual use of transferred arms may have a direct or indirect, positive or negative, impact on the enjoyment of human rights. In a positive sense, States may acquire and/or deploy arms in the discharge of their responsibility to protect individuals in their jurisdictions and establish or re-establish peace and security.[4]

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[1] See also Human Rights Council resolutions 24/25, 26/16 and 29/10.

[2] Contributions were received from Albania, Argentina, Colombia, Guatemala, El Salvador, Madagascar, Mauritius, Saudi Arabia, Sweden and Switzerland. Contributions were also received from the United Nations Development Programme (UNDP), the United Nations Institute for Disarmament Research, Action on Armed Violence (AOAV), Americans for Democracy and Human Rights in Bahrain, Amnesty International, Child Soldiers International, Conectas Human Rights, Control Arms, the Groupe de recherche et d'information sur la paix et la sécurité, the Omega Research Foundation, the Romanian Institute for Human Rights, Saferworld, the Small Arms Survey, Terre des Hommes/Kindernothilfe/Brot für die Welt, the Women's International League for Peace and Freedom (WILPF) and Hiram Catunambo Azevedo. All contributions will be made available on the OHCHR website.

[3] Conventional arms include hand grenades and manually emplaced anti-personnel and anti-vehicle mines; law enforcement weaponry that fire lethal ammunition and, for instance, riot launchers and related ammunition of all kinds, including tear gas grenades and cartridge-launched projectiles; kinetic-impact projectiles; projectile electrical weapons; directed energy weapons; shotgun-fired birdshot and buckshot; and water cannons and other riot control-type vehicles; and other types of conventional means of warfare, such as flamethrowers, directed energy weapons and bayonets. Non-conventional arms are those for which the transfer is prohibited by the 1968 Treaty on the Non-Proliferation of Nuclear Weapons, the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction and the 1992 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction. "Transfer" generally covers the export, import, sale, lease or loan of arms from the jurisdiction and/or control of one State to that of another.

[4] See also the contributions of El Salvador and Sweden.

The three pillars of the United Nations (peace and security, human rights and development) are closely intertwined, and the existence of peace and security is an important enabling condition for the promotion and protection of human rights.

6. However, arms transfers and their subsequent potential or actual use can also have a negative impact on the enjoyment of human rights. In its resolution 32/12, the Human Rights Council acknowledged that millions of people around the world are affected by serious human rights violations and abuses committed or facilitated by the irresponsible use of arms. In their contributions to the present report, some States have noted that the trade in and the excessive and uncontrolled proliferation of arms have a direct negative impact on the enjoyment of human rights.[7]

7. The Office of Disarmament Affairs of the Secretariat has cautioned that the irresponsible transfer of arms can destabilize security in a region,[8] which has serious ramifications for human rights protection.[9] The diversion of arms and illicit or unregulated arms transfers can contribute to the widespread and uncontrolled availability of arms, and raise the risk that the arms will be directed to or come into the hands of those who use, threaten to use or are likely to use them to commit human rights violations or abuses.[10] The transfer of arms to States with weak governance and security capacities may also have a negative impact in the light of the heightened risk of diversion of such arms.[11] Furthermore, arms transfers to States that do not regulate civilian access to small arms and light weapons according to international standards pose a risk that such weapons may be used by individuals to commit or facilitate human rights violations and abuses, such as sexual and gender-based violence.[12]

8. Arms transfers can also impair socioeconomic development and human rights through the diversion of the recipient State's finances away from health, education and other social sectors.[13] This "opportunity cost" was recognized by the drafters of the Charter of the United Nations, Article 26 of which sets out as an objective to promote the establishment and maintenance of peace and security with the least diversion for armaments of the world's human and economic resources.

9. Arms may be used in conflict and non-conflict situations to commit or facilitate acts that violate a wide range of human rights, from the right to life, liberty and security of the person to the right to be free from slavery and from torture and other cruel, inhuman or

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[7] See the contributions of Albania, Argentina and Switzerland.

[8] See www.un.org/disarmament/convarms/armstrade.

[9] See also the contribution of UNDP, the guidelines for international arms transfers in the context of General Assembly resolution 46/36H of 6 December 1991, para. 20, and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, initial elements, para. 1 (1).

[10] See the Arms Trade Treaty, the third preambular paragraph and art. 11. See also resolution 2 adopted at the thirty-first International Conference of the Red Cross and Red Crescent on a four-year action plan for the implementation of international humanitarian law.

[11] See the contribution of UNDP. See also, for example, Amnesty International, "Iraq: turning a blind eye: the arming of popular mobilization units" (4 January 2017).

[12] See the contribution of UNDP, citing the report of the United Nations High Commissioner for Human Rights on human rights and the regulation of civilian acquisition, possession and use of firearms (A/HRC/32/21). For the current international standard, see the International Small Arms Control Standard, available from www.smallarmsstandards.org/isacs/0330-en.pdf.

[13] See the contributions of Argentina and UNDP, the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, first preambular paragraph, and the Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, criterion eight. See also the report of the Group of Governmental Experts on the relationship between disarmament and development (A/59/119), para. 18, and the Geneva Declaration on Armed Violence and Development (see A/63/994, annex I, para. 1).

degrading treatment or punishment.[32] The use or threat of use of arms may also undermine the realization of the rights to freedom of expression, association and peaceful assembly.[33]

10. Not only is there the issue of "opportunity cost", economic, social and cultural rights can also be significantly undermined by the use of arms.[34] Particularly in contexts of armed conflict, such use can lead to the damage, destruction and/or closure of civilian infrastructure such as schools, hospitals, places of work, markets, residential areas, buildings and areas of religious and cultural significance, as well as to a breakdown in basic services.[35] In turn, civilians, including internally displaced persons and refugees, can be deprived of the minimum essential levels of food, health, education, shelter and sanitation. Furthermore, armed conflict and violence disproportionately affect the poorest countries and exacerbate existing poverty, in many instances creating humanitarian emergencies with serious repercussions for the enjoyment of basic economic and social rights. Arms transfers may also heighten and/or prolong existing violence or conflict, with a corresponding impact on human rights.[36]

11. Survivors of arms-related violence with impairments face higher barriers to "effective employment, well-being, and reintegration into community and family life".[37] Survivors may also experience long-term psychological effects that include post-traumatic social impairments, flashbacks, depression, anxiety and fear, suicidal or other forms of self-destructive behaviour, and substance abuse.[38]

12. As highlighted in Human Rights Council resolution 32/12, specific groups of individuals may be particularly vulnerable to violations of their rights as a result of arms transfers.[39] Arms may be used in the commission of, or may facilitate, gender-based violence,[40] including sexual violence.[41] Although men and boys are targets of gender-based violence, including sexual violence, the victims of such violence continue to be predominantly women and girls. As the Committee on the Elimination of Discrimination against Women has noted, the proliferation of conventional arms, especially small arms, including diverted arms from the legal trade, can have a direct or indirect effect on women as victims of conflict-related gender-based violence, as victims of domestic violence and also as protesters or actors in resistance movements.[42] Moreover, the proliferation of arms tends to have a negative impact on women's equality and bargaining power within the household, their mobility and their political participation.[43] It can also detrimentally affect women's access to, and use of, resources and business and employment opportunities.[44]

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[32] See the contributions of Albania, Colombia, El Salvador, Guatemala, Mauritius and Sweden.

[33] See the contribution of Amnesty International.

[34] See the contributions of Argentina and Amnesty International.

[35] See the contributions of Amnesty International and Control Arms.

[36] See the contributions of Switzerland and WILPF.

[37] Centre for Humanitarian Dialogue and Inter-Parliamentary Union, *Missing Pieces: A Guide for Reducing Gun Violence through Parliamentary Action* (2017), p. 63.

[38] Ibid. See also the contribution of Argentina.

[39] See also the contributions of Albania, El Salvador and Switzerland.

[40] Gender-based violence is understood as any harmful act directed against individuals or groups of individuals on the basis of their gender and includes sexual violence, domestic violence and trafficking. See also the contribution of Switzerland.

[41] Sexual violence encompasses any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, acts to traffic, or other acts directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. Sexual violence takes multiple forms and includes rape, sexual abuse, forced pregnancy, forced sterilization, forced abortion, forced prostitution, trafficking, sexual enslavement, forced circumcision, castration and forced nudity. See, for example, the analytical and conceptual framing of conflict-related sexual violence prepared in 2011 by United Nations Action against Sexual Violence in Conflict.

[42] General recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, para. 32.

[43] See contributions of WILPF.

[44] Ibid. See also South-Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, *Gender and SALW in South East Europe: Main Concerns and Policy Responses*

13. There is a long-standing awareness of the link between the global trade in conventional weapons, including small arms and light weapons, and grave violations committed against children in conflict situations.[17] The relationship between the widespread availability of small arms and light weapons and the recruitment and use of children in conflict is also well known.[18] In his latest report on children and armed conflict, the Secretary-General noted the substantial impact of current conflicts on children, including in relation to their recruitment and use, sexual abuse and exploitation, killing and/or maiming and displacement, as well as the destruction of their schools and homes.[19] The Special Representative to the Secretary-General on Children and Armed Conflict recently drew attention to the fact that girls continue to be disproportionately affected by conflict, including as targets of rape and other forms of sexual violence, in the recruitment and use by armed forces, in situations of displacement and as a consequence of being disproportionately exposed to trafficking. Girls also face additional impediments to their right to education as their schools may be specifically targeted for attack, and as a result of being confined to the home owing to the security situation and/or being given additional household responsibilities.[20]

III. Measuring the impact of arms transfers on the enjoyment of human rights

14. The collection of data has enabled the measurement of some of the consequences of the use of certain types of arms and, over time, the identification of patterns and trends. For example, according to the Small Arms Survey, 79 per cent of deaths caused by armed violence occur in non-conflict settings, while an estimated 2 million people in non-conflict settings live with firearm-related injuries.[21] Between 2000 and 2015, the average number of violent deaths worldwide was estimated to be at 535,000 annually.[22] Conflict-related deaths accounted for 17 per cent of that number.[23] Firearms were used in 50 per cent of homicides and 32 per cent of conflict-related deaths.[24] In Global Burden of Armed Violence 2015: Every Body Counts, it was estimated that firearms were used in 44.1 per cent of all violent deaths during the period 2007–2012, which translates to an annual global average of nearly 197,000 deaths.

15. Moreover, according to research carried out by Action on Armed Violence (AOAV) there was a 48 per cent increase in deaths and injuries from explosive weapons between 2011 and 2015.[25] Improvised explosive devices caused the most harm, followed by air-launched weaponry and ground-launched weaponry. Explosive weapons were used in 566

(2006) and the progress report of the Special Rapporteur on the prevention of human rights violations committed with small arms and light weapons (E/CN.4/Sub.2/2004/37), paras. 46-52.

[17] Report of the Special Representative of the Secretary-General for Children and Armed Conflict (A/68/267), para. 92.

[18] Ibid. See also Child Soldiers International, *Louder than Words: an Agenda for Action to End State Use of Child Soldiers* (2012) and Oxfam Novib, Terre des Hommes, Kindernothilfe, Save the Children Deutschland and World Vision Deutschland, *Small Arms in the Hands of Children: German Arms Exports and Child Soldiers* (Terre des Hommes, Kindernothilfe, Save the Children Deutschland and World Vision Deutschland, 2007).

[19] Report of the Secretary-General on children and armed conflict (A/70/836-S/2016/360). See also, for example, UNICEF, *Missing Back to School: How 2016 became the Worst Year for Syria's Children* (March 2017).

[20] See the annual report of the Special Representative of the Secretary-General for Children and Armed Conflict (A/HRC/34/44), paras. 9-14.

[21] Aaron Karp, Glenn Dietz, "A million of unwanted: non-lethal firearm violence", in *Small Arms Survey 2012: Moving Targets* (Cambridge University Press, 2012), pp. 79-105.

[22] Small Arms Survey, "Monitoring trends in violent deaths", Research Note No. 59 (September 2016), p. 2.

[23] Ibid.

[24] Small Arms Survey, "Firearms and violent deaths", Research Note No. 61 (October 2016) p. 1.

[25] See the contribution of AOAV.

incidents, which resulted in 188,325 deaths and injuries.[14] Civilians constituted 77 per cent of the resulting deaths and injuries, and 59 per cent of those civilians were killed or injured by improvised explosive devices.[15] Armed actors made up the remaining 23 per cent of deaths and injuries.[16] AOAV also collected information on the use of explosive weapons in populated and unpopulated areas between 2011-2015. In populated areas, 91 per cent of deaths and injuries were among civilians. That contrasts with 33 per cent of civilian deaths and injuries in unpopulated areas.[17] According to the International Campaign to Ban Landmines-Cluster Munition Coalition, in 2015 there were reportedly 417 casualties resulting from cluster munitions, the vast majority of which occurred during cluster munitions attacks.[18] Casualties from cluster munition remnants were recorded in at least eight countries, and civilians accounted for 97 per cent of the casualties recorded in 2015.[19]

16. That data contributes to increasing awareness of the impact of arms transfers on the enjoyment of human rights. There is, however, limited data available in relation to all types of arms, and all consequences, which prevents a comprehensive understanding of the impact on human rights. There is a need for a greater, systematic collection of information regarding all types of arms and the many ways in which their transfer and use can affect the whole spectrum of human rights. Better data will ultimately help to develop a stronger understanding of the relationship between arms transfers and human rights, with beneficial implications for strengthening human rights protection, including by informing and aiding the effective implementation of the Arms Trade Treaty and relevant regional instruments.

17. The adoption of the 2030 Agenda for Sustainable Development, in particular Sustainable Development Goal 16 on peace, justice and strong institutions, represents a significant step towards recognizing the importance of arms control to sustainable development and related human rights protection. While the transfer and subsequent use of arms are relevant to several of the targets set out under Goal 16, they are most immediately relevant to targets 16.1, which requires States to significantly reduce all forms of violence and related death rates everywhere, and 16.4, which requires States to significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime.[40] The indicators that are being elaborated and agreed for target 16.4 will be one important avenue through which information on the human rights impact of the flow of illicit arms can be systematically collected, analysed and ultimately measured over time.

18. Also contributing to understanding about the human rights impact of arms are the efforts by civil society to develop methodologies to monitor arms transfers and gather information for the implementation of the Arms Trade Treaty. The Arms Trade Treaty Monitor Risk Watch Tool, for example, aims to survey, synthesize and make available information from a wide range of sources that monitor and report on human rights violations and risks related to the use of weapons in the context of the Treaty.[41] The tool is intended to help inform and guide licensing authorities as part of their national assessment process, and to serve as a resource for civil society organizations and others in their review of effective treaty implementation.[42]

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[14] AOAV, *Patterns of Harm. Five Years of AOAV Explosive Violence Data (2011-2015)* (2 August 2016). See also Graduate Institute of International and Development Studies and the United Nations Institute for Disarmament Research The International Community and IEDs: Building coordinated processes and responses (June 2015), citing various reports and findings by AOAV.

[15] AOAV, Patterns of Harm.

[16] Ibid.

[17] See the contribution of AOAV.

[18] *Cluster Munition Monitor 2016* (2016), p. 2.

[19] Ibid.

[40] See targets 16.2 and 16.5-16.7, as well as targets 5.2 and 11.7.

[41] Control Arms, *ATT Monitor Report 2016*, pp. 52 ff.

[42] Ibid.

IV. Legal framework

19. In its resolution 32/12, the Human Rights Council recalled the principles and provisions relating to international human rights law and international humanitarian law, and to the promotion of responsible action by States, as contained in the Arms Trade Treaty, as well as in other relevant instruments. The present section outlines the principles of due diligence and the responsibility for aiding or assisting in the commission of an internationally wrongful act in international human rights law and public international law, respectively, before discussing, in brief, the international and regional arms transfer regimes and guidance from international human rights mechanisms.

A. Principles of due diligence and responsibility for aiding or assisting

20. International human rights law provides for the principle of due diligence, by which a State may be held responsible for its failure to take reasonable steps to prevent, investigate, punish and ensure reparations for human rights violations and abuses committed by private persons or entities, including companies and non-State armed groups.[43]

21. In public international law more generally, and as articulated in article 16 of the International Law Commission's draft articles on responsibility of States for internationally wrongful acts, a "State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State does so with knowledge of the circumstances of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that State."[44] In line with that provision, a State that transfers arms with knowledge that the arms will aid or assist another State to commit a serious violation of international human rights law may be held responsible for failing to exercise due diligence by taking the necessary preventive measures.

22. In its commentary to the draft articles on responsibility of States for internationally wrongful acts, the International Law Commission expressly considered the issue of arms transfer:[45]

> a State may incur responsibility if it assists another State to circumvent sanctions imposed by the Security Council or provides material aid to a State that uses the aid to commit human rights violations. In this respect, the General Assembly has called on Member States in a number of cases to refrain from supplying arms and other military assistance to countries found to be committing serious human rights violations. Where the allegation is that the assistance of a State has facilitated human

[43] See, for example, Human Rights Committee general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 8, and Committee on Economic, Social and Cultural Rights general comments No. 14 (2000) on the right to the highest attainable standard of health, para. 51, and No. 15 (2002) on the right to water, para. 31. See also Inter-American Court of Human Rights, *Velásquez-Rodríguez v. Honduras*, judgment of 29 July 1988, paras. 172 and 174; European Court of Human Rights, *Akkoç v. Turkey*, judgment of 10 October 2000, paras. 77-78; the preliminary report of the Special Rapporteur on the prevention of human rights violations committed with small arms and light weapons (E/CN.4/Sub.2/2003/29), paras. 36-43; and European Court of Human Rights, *Tagar v. Italy*, decision on admissibility of 18 October 1995. Moreover, the Human Rights Committee, in its draft general comment on the right to life, has suggested that the transfer of weapons may fall within the scope of article 6 of the International Covenant on Civil and Political Rights.

[44] The International Court of Justice has held that article 16 has attained the status of customary international law. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007*, p. 43, para. 147.

[45] Paragraph (9) of the commentary to draft article 16 of the draft articles on responsibility of States for internationally wrongful acts, *Yearbook of the International Law Commission, 2001*, vol. II (Part Two), p. 67.

rights abuses by another State, the particular circumstances of each case must be carefully examined to determine whether the aiding State by its aid was aware of and intended to facilitate the commission of the internationally wrongful conduct.

B. Arms transfer regimes

23. States have taken steps to regulate arms transfers through a variety of binding and non-binding instruments at the international and regional levels. These instruments make human rights a primary consideration for States when assessing the lawfulness of a potential arms transfer.

1. Arms Trade Treaty

24. The Arms Trade Treaty is the first international, legally binding instrument to govern specifically the transfer of conventional arms, their key parts and components and ammunition/munitions, and to incorporate human rights as a standard to restrict such transfers, with the express purpose of reducing human suffering. An important feature of the Treaty is to make respect for and protection of human rights imperative in any determination of whether a proposed arms transfer should proceed. In the preamble of the Treaty, the signatories acknowledged "the security, social, economic and humanitarian consequences of the illicit and unregulated trade in conventional arms" and recalled that "civilians, particularly women and children, account for the vast majority of those affected by armed conflict and armed violence". Moreover, the Treaty explicitly incorporates in its preamble the principle, already set out in the Charter of the United Nations, of "the least diversion for armaments of the world's human and economic resources", thereby acknowledging that an increase in arms expenditure diverts resources from health, education and other social sector spending.

25. Articles 6, 7 and 8 constitute the key provisions of the Arms Trade Treaty. Such is the significance of articles 6 and 7 that signatory or ratifying States may declare that they will provisionally apply them, pending the entry into force of the Treaty. Article 6 (3) prohibits, in absolute terms, any transfer of conventional arms when the State party has knowledge, at the time of authorization, that the arms would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a party. A transfer of arms in violation of Security Council arms embargoes or other international obligations is also prohibited.

26. When a proposed export is not prohibited under article 6, the exporting State must still assess, "in an objective and non-discriminatory way", the "potential" that the weapons would contribute to, or undermine, peace and security, and that they could be used to commit or facilitate offences under international conventions related to terrorism and transnational organized crime or a serious violation of international human rights law or international humanitarian law (art. 7). Article 7 (4) explicitly provides that the exporting State must take into account the risk of the potential export items being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children. Arms export decisions in relation to any and every export of conventional arms, parts and components or ammunitions/munitions covered by the Arms Trade Treaty are therefore subject to a human rights risk assessment.

27. The text of the Arms Trade Treaty does not define which acts constitute "a serious violation of international human rights law". In that regard, the criteria most commonly used in evaluating the seriousness of human rights violations, as evidenced by the practice of United Nations human rights mechanisms and other relevant international and regional bodies, include the character of the right violated, the nature or scale of the violation, the impact of the violation and the type of victim.[69]

[69] Geneva Academy of International humanitarian Law and Human Rights, "What amounts to 'a serious violation of international human rights law'? An analysis of practice and expert opinion for the

28. In accordance with article 8 of the Arms Trade Treaty, the importing State "shall take measures to ensure that appropriate and relevant information is provided, upon request, pursuant to its national laws, to the exporting State to assist" it in carrying out its human rights risk assessment. When, after making the assessment, and considering available mitigating measures, the exporting State determines that there is an overriding risk of any of these negative consequences, it shall not authorize the export. Also, significantly, article 7 (7) "encourages" the exporting State to reassess an authorization if it "becomes aware of new information".

2. Regional arms transfers instruments

29. Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment sets out the obligation of States members of the European Union to assess export licence applications against eight criteria. Criterion two requires States to respect human rights in the country of final destination and provides that:

> Having assessed the recipient country's attitude towards relevant principles established by international human rights instruments, Member States shall: (a) deny an export licence if there is a clear risk that the military technology or equipment to be exported might be used for internal repression; (b) exercise special caution and vigilance in issuing licences, on a case-by-case basis and taking account of the nature of the military technology or equipment, to countries where serious violations of human rights have been established.

30. Article 6 (3) of the Economic Community of West African States Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (2006) stipulates that a "transfer shall not be authorised if the arms are destined to be used ... for the violation of international humanitarian law or infringement of human and peoples' rights and freedoms, or for the purpose of oppression".

31. The Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components That Can Be Used for Their Manufacture, Repair and Assembly, which came into force on 8 March 2017, has as one of its purposes to "combat armed violence and ease the human suffering caused in Central Africa by the illicit trade and trafficking in small arms and light weapons". It provides, in article 5 (5), that authorization for the transfer of such arms "shall be denied by the competent national body if [they] are to be or might be used to commit violations of international human rights law or international humanitarian law".[47]

C. Relevant guidance from human rights mechanisms

32. In paragraph 29 of its general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, the Committee on the Elimination of Discrimination against Women noted that the robust and effective regulation of arms, in addition to appropriate control over the circulation of existing and often illicit conventional

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purposes of the 2013 Arms Trade Treaty", Academy Briefing No. 6 (August 2014), in which the authors examine, inter alia, the treatment of "seriousness" in concluding observations of United Nations treaty bodies (pp. 27-30). See also section 3.2.6 of the user's guide to Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment (2009), available from http://data.consilium.europa.eu/doc/document/ST-10858-2015-INIT/en/pdf.

[47] See also the following non-binding instruments, which similarly establish human rights as a critical consideration in export decisions: the Wassenaar Arrangement Best Practice Guidelines for Exports of Small Arms and Light Weapons (2002); the Organization of American States Model Regulations for the Control of Brokers of Firearms, Their Parts and Components and Ammunition (2003), art. 5 (1); the Code of Conduct of Central American States on the Transfer of Arms, Ammunition, Explosives and Other Related Materiel (2005), art. 1; and the Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons (2005).

arms, including small arms, is part of the prevention of conflict and all forms of violence as required by the Convention on the Elimination of All Forms of Discrimination against Women. To that end, the Committee recommended that States parties address the gendered impact of international transfers of arms, especially small and illicit arms, including through the ratification and implementation of the Arms Trade Treaty.[48]

33. Since the adoption of general recommendation No. 30, the Committee on the Elimination of Discrimination against Women has consistently raised the issue of arms transfers with exporting countries. It has recommended that States parties, inter alia: (a) monitor the impact of the misuse and illicit trade of small arms and light weapons on women, including those living in conflict zones, and ensure that arms producing corporations monitor and report on the use of their arms in violence against women;[49] (b) ensure that comprehensive and transparent assessments of the impact of arms exports on women's rights are made before approving export licences, particularly to countries where arms may directly or indirectly be used to violate the rights of women and girls;[50] (c) integrate a gender dimension into strategic dialogues with recipient countries;[51] (d) ensure that new legislation to regulate the export of arms includes a strong and robust gender-specific perspective;[52] and (e) conduct rigorous, transparent and gender-sensitive risk assessments, in accordance with the Arms Trade Treaty.[53]

34. The Committee on the Rights of the Child has been particularly attentive to the potential impact of arms transfers on children's rights. In that regard, it has made a series of recommendations to States parties that are noteworthy, namely to: (a) continue and strengthen efforts to regularly report on, and make public, information on weapon exports, and take steps to include information on the end-users of such exports in public reports; (b) ensure the greatest transparency regarding the transfer of arms; (c) enact legislation to prohibit the sale or smuggling, export and/or transit of arms to countries where children are known to be or may potentially be recruited or used in hostilities; (d) consider seeking assistance from regional and international organisations to apply the criteria of relevant regional code of conduct on arms export, and undertake a comprehensive analysis on the impact on children of weapons exports; (e) continue to raise awareness through information campaigns on the dangers of storing arms and weapons; (f) take measures to ensure that those responsible for controlling the sale, export or transit of arms are made aware of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and are guided, during the relevant decision-making processes, by its provisions; and, (g) consider ratifying or expedite ratification of the Arms Trade Treaty.[54]

35. The Committee on Economic, Social and Cultural Rights has recently recommended to a State party that it conduct thorough risk assessments prior to granting licences for arms exports and refuse or suspend such licences when there is a risk that arms could be used to violate human rights, including economic, social and cultural rights.[55]

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[48] See also CEDAW/C/ERI/CO/5, para. 9 (c).

[49] See CEDAW/C/CHE/CO/4-5, para. 17.

[50] See CEDAW/C/NLD/CO/6, para. 46 (a). See also CEDAW/C/DEU/CO/7-8, para. 28.

[51] See CEDAW/C/FRA/CO/7-8, para. 23.

[52] See CEDAW/C/SWE/CO/8-9, para. 27 (h).

[53] See CEDAW/C/FRA/CO/7-8, para. 23.

[54] See CRC/C/SWE/CO/5, para. 54, CRC/C/OPAC/NLD/CO/1, para. 24, CRC/C/OPAC/BRA/CO/1, para. 34, CRC/C/OPAC/TKM/CO/1, para. 24, CRC/C/DEU/CO/3-4, para. 77, CRC/C/OPAC/CHN/CO/1, para. 34, CRC/C/OPAC/UKR/CO/1, para. 26, CRC/C/OPAC/MNE/CO/1, para. 25, CRC/C/OPAC/MDA/CO/1, para. 15, CRC/C/OPAC/TUN/CO/1, para. 18, CRC/C/OPAC/GBR/CO/1, para. 33, and CRC/C/OPAC/USA/CO/1, para. 34. See also CRC/C/OPAC/BEL/CO/1, para. 21, in which the Committee on the Rights of the Child recommended that the State party review its domestic law on small arms trade with a view to abolishing any trade in war materiel with countries where persons under 18 years of age take a direct part in hostilities, either as members of the national armed forces or as members of non-State armed groups.

[55] See E/C.12/GBR/CO/6, para. 12 (c).

36. The Special Rapporteur on the human rights of internally displaced persons recommended, in relation to the conflict in the Syrian Arab Republic, that the international community, humanitarian actors and donors take measures to counter further militarization of the conflict and resulting displacement by restricting arms transfers.[56] Also in the context of that conflict, the Independent International Commission of Inquiry on the Syrian Arab Republic concluded that:

> The desperation of the parties to the conflict has resulted in new levels of cruelty and brutality, bolstered by an increase in the availability of weapons. Increased arm transfers hurt the prospect of a political settlement to the conflict, fuel the multiplication of armed actors at the national and regional levels and have devastating consequences for civilians.[57]

The Commission recommended that the international community counter the escalation of the conflict by restricting arms transfers, especially given the clear risk that the arms will be used to commit serious violations of international human rights or humanitarian law.[58]

37. A number of relevant recommendations have been made by States during the universal periodic review, including that States ensure that no arms are traded with regions that deploy child soldiers; review legislation and introduce a prohibition on the sale and transit of arms to countries where children may potentially be recruited or used in hostilities; ratify and implement the Arms Trade Treaty; and consolidate efforts for the ratification of the Treaty with the aim of consolidating common international norms to regulate international trade in conventional arms, ammunition and parts and components, contributing to peace and security, reducing human suffering and promoting cooperation and transparency.[59] Of those recommendations, seven have been accepted and two have been noted.

V. Elements to assess the relationship between arms transfers and international human rights law

38. The present section contains suggestions for how States and other relevant stakeholders could assess the relationship between arms transfers and human rights law with a view to guiding them to strengthen efforts to effectively protect human rights.[60] In particular, the suggestions could form the basis of the human rights risk assessments that must be conducted under regional arms transfer instruments and pursuant to article 7 of the Arms Trade Treaty. They could also provide a framework for requests for information by the exporting State to the recipient State under article 8 of the Treaty. Their incorporation into national law, policies and operating procedures may assist in ensuring a consistent application of human rights criteria in all decisions on arms exports, as well as in improving accountability and transparency. Consideration may also be given to using the suggestions in the future development of a set of indicators to identify and measure the impact of arms transfers on the enjoyment of human rights.

39. The suggestions have been grouped into three main categories, namely: the recipient State's commitment and capacity to comply with and implement its international human rights obligations, its respect for human rights and its capacity to control the use of

[56] See A/67/931, para. 78 (b).

[57] Report of the Independent International Commission of Inquiry on the Syrian Arab Republic (A/HRC/23/58, para. 157).

[58] Ibid., para. 164 (d).

[59] A/HRC/15/6, A/HRC/15/11, A/HRC/18/3, A/HRC/26/3, A/HRC/30/9, A/HRC/30/11, A/HRC/30/16, A/HRC/32/13 and A/HRC/33/15.

[60] See, inter alia, the contributions of Amnesty International, Child Soldiers International, Control Arms, GRIP, Omega Research Foundation, Saferworld and WILPF. See also module six of the Arms Trade Treaty implementation toolkit prepared by the Office of Disarmament Affairs of the Secretariat; Amnesty International, *How to Apply Human Rights Standards to Arms Transfer Decisions* (2008); and International Committee of the Red Cross, Arms Transfer Decisions: Applying International Humanitarian Law and International Human Rights Law Criteria — A Practical Guide (2016).

transferred arms in accordance with international human rights. While any human rights risk assessment should be open to considering other elements in order to remain relevant as situations evolve, the following are considered the most critical:

(a) Commitment and capacity of the recipient State to comply with and implement its human rights law obligations:

(i) Ratification of international and/or regional human rights instruments;

(ii) Existence of a national legal framework that provides human rights protection in accordance with the international and/or regional instruments to which it is a party;

(iii) Existence of legislative and other measures to address violence against women, gender-based violence and violence against children;

(iv) Existence of a competent, independent, impartial judiciary and independent human rights monitoring bodies, including a national human rights institution;

(v) Training of the armed forces in international humanitarian law and integration of international humanitarian law into military doctrine, manuals and instructions;

(vi) Training of police and other law enforcement officials in international human rights law and integration of international human rights law into law enforcement manuals, instructions and operating procedures;

(vii) Cooperation with international and regional human rights mechanisms and international judicial mechanisms, including the International Criminal Court;

(b) Respect for human rights in the recipient State:

(i) Past and present record of respect for international human rights law, particularly during military and/or law enforcement operations having recourse to arms;

(ii) Past and present record of gender-based violence and violence against women, including when committed with or facilitated by the type of arms that are the subject of the proposed transfer;

(iii) Past and present record of violence against children and/or the recruitment of children into, and their use by, the armed forces or non-State armed groups, including committed with or facilitated by the type of arms that are the subject of the proposed transfer;

(iv) Past and present record of significant and persistent pattern or patterns of discrimination or oppression against individuals or groups, including minorities;

(v) Where serious human rights violations or abuses have occurred over recent years, the nature and range of the human rights violated, the scale and impact of the violations or abuses, the type of victims and the extent to which the violations or abuses constitute a pattern or emerging patterns;

(vi) Past and present record of measures to end human rights violations and abuses, ensure accountability for violations, prevent their reoccurrence and provide effective remedy to victims;

(c) Capacity of recipient State to control use of transferred arms in accordance with international human rights law:

(i) Ratification of international and/or regional arms transfer instruments, including the Arms Trade Treaty;

(ii) Effective national arms control system, legislation and procedures in place that accord with international and regional arms transfer standards, such as those key components of an arms control regime provided for in articles 5 and 8-14 of the Arms Trade Treaty, and include prohibitions on the transfer of arms that may be used in the commission or facilitation of violations and abuses of international

human rights law, including violence against women, gender-based violence and violence against children;

(iii) Extent to which the type and quantity of arms that are the subject of the proposed export are commensurate with the intended use stated by the recipient State.

40. In order to be effective, a human rights risk assessment must be based on the objective, non-discriminatory, verifiable and systematic collection of accurate and reliable information. A wide array of sources may be needed to build a comprehensive understanding of the immediate and long-term human rights risks associated with a proposed export. In addition to information that can be requested from the recipient State under article 8 of the Arms Trade Treaty, sources of information relevant for the application of human rights criteria for arms transfer decisions may include documentation from:

(a) United Nations human rights bodies, including the Human Rights Council, its universal periodic review mechanism and the special procedure mandate holders, the human rights treaty bodies, the United Nations commissions of inquiry and fact-finding missions;

(b) OHCHR;

(c) Other relevant United Nations organs (such as the Security Council), programmes and funds (including UNDP, the Office of the United Nations High Commissioner for Refugees and the United Nations Children's Fund), the International Court of Justice and ad hoc courts and tribunals;

(d) The International Criminal Court;

(e) Regional human rights bodies;

(f) The secretariat of the Arms Trade Treaty;

(g) International and national non-governmental organizations, research institutes and think tanks with expertise in international human rights law, international humanitarian law and the arms trade;

(h) National diplomatic missions;

(i) National human rights institutions, sources of military doctrine, manuals and instructions of the recipient State;

(j) International and national media outlets.

41. All human rights risk assessments should be conducted on a case-by-case basis, taking account of the gender dimension of arms transfers and the potential or actual use of the transferred arms. They should integrate a forward-looking approach that looks at both the past and present human rights record of the recipient State and at the anticipated risks to the level of enjoyment of all human rights. A forward-looking assessment would also take into account the potential impact of the "long shelf-life of much military equipment".[61] It should, therefore, consider: (a) the durability of the arms subject to export authorization, as arms often outlast political regimes and can be used in unintended or unforeseen ways over the long term; (b) cyclical patterns that may signal a return to heightened risks of disturbance and human rights violations or abuses, even if the situation has recently stabilized; and (c) any events or circumstances that, even if seemingly unrelated to human rights violations, may result in a deterioration of the human rights situation.[62]

VI. Conclusions and recommendations

42. **Arms transfers and the potential or actual use of transferred arms may have a direct or indirect, positive or negative, impact on the enjoyment of civil, political,**

[61] Control Arms, *ATT Monitor Report 2016*, p. 62.

[62] See the contribution of Saferworld.

economic, social and cultural rights. On one hand, arms may be acquired and/or deployed by States in the discharge of their obligation to protect individuals within their jurisdictions and establish or re-establish peace and security. On the other hand, the proliferation of arms, their diversion, illicit or unregulated arms transfers, transfers to States with insufficient regulation of civilian access to arms and the subsequent use or potential use of arms, may undermine national, regional and global peace and security and contribute to serious human rights violations and abuses. Specific groups of individuals, including women and children, are particularly vulnerable to violations and abuses of their rights as a result of the transfer and use of arms.

43. Systematic collection of information about the transfer and use of all types of arms and their impact on the whole spectrum of human rights should be ensured. In that regard, disaggregation of the types of arms according to the seven categories identified in the United Nations Register of Conventional Arms would be useful. The collection of such information would enable a better understanding of the relationship between arms transfers and human rights, and could guide effective actions to strengthen human rights protection.

44. One avenue for information collection will be target 16.4 of the Sustainable Development Goals, and its indicator. In order to achieve a comprehensive understanding, it would also be important for States to engage in regular, public reporting on their decisions regarding arms transfer authorizations and actual transfers. In addition, relevant United Nations mechanisms could carry out systematic monitoring and reporting on the ways that transfers and the use of arms affect human rights, and should be provided with the appropriate resources to do so.

45. Civil society is contributing to building understanding about the human rights impact of arms transfers, including through its efforts to develop methodologies to monitor, gather, analyse and make available information on arms transfers. It also plays an important role in encouraging State compliance with the international law governing arms transfers, including by highlighting those transfers that have had detrimental human rights impact and exploring avenues for accountability. Civil society should continue to make efforts in this regard, with the support of the international community.

46. The international treaties regulating arms transfers, including the Arms Trade Treaty and regional arms transfer instruments, make human rights a primary consideration in decisions on whether to authorize an arms transfer. All efforts should continue to be made, including by States, United Nations entities and civil society, to advance accession to and/or ratification of the Treaty and regional arms transfer instruments.

47. Efforts should also continue to be made to ensure compliance with these instruments and with applicable international law, including international human rights law, in particular the principles of due diligence and the responsibility for aiding or assisting in the commission of an internationally wrongful act. United Nations human rights mechanisms have made a number of important recommendations on ways to address the human rights impact of arms transfers and the subsequent use of arms. States should follow up and implement those recommendations.

48. In the present report, some elements have been suggested for how to assess the relationship between arms transfers and human rights in order to strengthen efforts to effectively protect human rights. Those suggestions may, among other things, also aid in the implementation of obligations under the Arms Trade Treaty and regional arms transfer instruments, ensure that human rights considerations are consistently taken into account and improve accountability and transparency in States' decisions on arms transfer authorizations. They could inform the development of a set of indicators to identify and measure the impact of arms transfers on the enjoyment of human rights.

49. To be effective, human rights risk assessments should be based on the objective, non-discriminatory, verifiable and systematic collection of accurate and reliable information. They should be carried out on a case-by-case basis and take full account of the gender dimension of arms transfers. Effectiveness could also be strengthened through the sharing of good practices.

50. To further enhance effectiveness, States should ensure that national control system bodies, as well as other government bodies involved in arms transfer decision-making processes, have the capacity to carry out human rights risk assessments, including through the inclusion of human rights experts in their staff.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Promotion, protection and enjoyment of human rights on the Internet: ways to bridge the gender digital divide from a human rights perspective

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 32/13, in which the Council requested the United Nations High Commissioner for Human Rights to prepare a report on ways to bridge the gender digital divide from a human rights perspective, and submit it to the Council at its thirty-fifth session.

In the report, the gender digital divide is considered as both a consequence and cause of human rights violations, some of the complex factors acting as barriers to women's online access and participation are outlined and the reasons why overcoming these barriers is important for women's human rights are discussed. The report also contains a set of proposed recommendations to ensure that information and communications technologies are accessible to women on an equal basis without discrimination, and to promote women's equal, effective and meaningful participation online.

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 32/13, in which the Council requested the United Nations High Commissioner for Human Rights to prepare a report on ways to bridge the gender digital divide from a human rights perspective.

2. Pursuant to paragraph 13 of resolution 32/13, the Office of the United Nations High Commissioner for Human Rights (OHCHR) sought contributions from States, the special procedures of the Human Rights Council, international organizations, national human rights institutions, civil society, industry, the technical community and academia and other stakeholders.[1] The report further draws on a diverse range of public sources.

II. Understanding the gender digital divide

A. Definitions

3. The term "digital divide" refers to the gap between individuals, households, businesses and geographic areas at different socioeconomic levels with regard to their opportunities to access information and communications technologies (ICTs) and to their use of the Internet for a wide variety of activities.[2] For the purposes of the present report, the "gender digital divide" refers to the measurable gap between women[3] and men in their access to, use of and ability to influence, contribute to and benefit from ICTs.[4]

[1] Contributions were received from: Albania, Australia, Azerbaijan, Canada, Chile, Colombia, Costa Rica, Cuba, Czechia, El Salvador, Georgia, Germany, Greece, Guatemala, Finland, Ireland, Italy, Kyrgyzstan, Liberia, Madagascar, Mali, Malta, Mexico, Montenegro, Nicaragua, Norway, Panama, Paraguay, Portugal, Qatar, Saudi Arabia, Slovenia, Sweden, Switzerland, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela (Bolivarian Republic of); European Union Agency for Fundamental Rights, International Telecommunication Union (ITU), Committee on the Rights of the Child and United Nations Educational, Scientific and Cultural Organization (UNESCO); National Human Rights Commission of Mexico, Commission on Human Rights of the Philippines, Danish Institute for Human Rights, Defensoría del Pueblo of the Bolivarian Republic of Venezuela, Iranian Islamic Human Rights Commission, Office of the Provedor for Human Rights and Justice of Timor-Leste, National Commission for Human Rights of Rwanda, Slovak National Centre for Human Rights, Access Now, Anita Borg Institute for Women and Technology, Article 19, Association for Progressive Communications, Astraea Lesbian Foundation for Justice, Barbara Schwarze of the competence centre for technology, diversity and equal chances at the Fernfachhochschule Osnabrück, Centre of Governance and Human Rights Alfred's Voices Foundation at the University of Cambridge, Digital Leadership Institute, Digital Rights Foundation, Ericsson, Due Diligence Project, Every1Mobile, Feminism in India, Flavia Marzano — Councillor for Innovation of the City of Rome, GenARTalk, Global Fund for Women, Google, GSM Association, Hollaback!, IT for Change, Maria Sangiuliano — Department of Computer Sciences at La Trobe University, Mozilla Foundation, Netzhype, Plan International. Project Include, researchers at Carnegie Mellon University and the International Computer Science Institute, Shamia Ghosh — Department of Engineering at the University of Cambridge, Signal Program of the Harvard Humanitarian Initiative, Silicon Valley Robotics, Techfund, Tech Ladies, the Hacktivist Project, the Human Rights, Big Data and Technology Project at the University of Essex, Internet Society, Together for Girls, Turkey Blocks, Twitter, The Womanity Foundation, World Pulse, World Wide Web Foundation and YTH. All contributions are available at www.ohchr.org/EN/Issues/Women/WRGS/Pages/WaystoBridgetheGenderDigitalDivide.aspx.

[2] Organisation for Economic Cooperation and Development, *Understanding the Digital Divide* (2001), p. 5. See also A/HRC/17/27, para. 61 and A/HRC/32/37, paras. 51–63.

[3] All references to "women" in the present report should be construed as including girls and anyone identifying as a woman.

[4] The gender digital divide has also been described as a gender-driven imbalance in access to ICTs, general ICT literacy and presence in science, technology, engineering and mathematics studies (see ITU, "The gender digital inclusion map: research methodology" (2016)).

III. Gender disparities in access to and use of information and communications technologies

4. ICTs, including the Internet, are increasingly influential across all aspects of life. However, while in many contexts ICTs have boosted growth and expanded opportunities, their impact is unevenly distributed.[5] Today, despite widespread increases in basic Internet availability, only 47 per cent of the world's population is connected.[6] The offline population is disproportionately poor, rural, older and female, and the gap between them and those who have access to the Internet is widening steadily.

5. Internet uptake has come about unequally and at differing speeds, exacerbating inequalities between many groups, notably between women and men. Worldwide it is estimated that approximately 250 million fewer women than men are online.[7] According to recent figures, the global Internet user gender gap expanded from 11 per cent in 2013 to 12 per cent in 2016. While Internet penetration rates are higher for men than women in all regions, the gender gap is lowest in developed countries (2.0 per cent in 2016), significantly higher in developing countries (16.0 per cent in 2016) and highest in least developed countries (30.9 per cent in 2016).[8] It is most pronounced in Africa, the Arab States and the Asia-Pacific region.[9]

6. However, Internet penetration rates are only one component of the gender digital divide. While Internet connectivity continues to be an economic and infrastructural challenge, there are other inequalities in Internet usage patterns, skills and benefits. Research reveals that women are much less likely than men in the same age group and at similar education and income levels to use the Internet.[10] In one report, covering 10 countries, it was noted that once online, women are between 30 and 50 per cent less likely than men to use the Internet for economic and political empowerment.[11]

7. Women are also left behind by the rapid growth in mobile telephone ownership, currently the most prevalent means of access to the Internet in developing countries.[12] Worldwide, women are, on average, 14 per cent less likely than men to own a mobile telephone.[13] When they own mobile telephones, women are less likely than men to utilize mobile data, social media applications or SMS services.[14]

8. Information received reveals wide discrepancies among States in women's access to and use of ICTs. However, the availability of sex- and gender-disaggregated data in this

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[5] According to a 2013 report, bringing an additional 600 million women and girls online would result in a global gross domestic product increase of up to $18 billion (see Broadband Commission, *Doubling Digital Opportunities: Enhancing the Inclusion of Women & Girls in the Information Society* (ITU and UNESCO, 2013)). Other studies call into question the productivity gains said to be brought by the Internet (see, for example, World Bank, *World Development Report 2016: Digital Dividends* (2016), pp. xxiv and 2).

[6] ITU, Facts and Figures 2016, fourth page.

[7] Isabel Neuhaus, "Connecting the unconnected: working together to achieve Connect 2020 Agenda targets", background paper to the special session of the Broadband Commission and the World Economic Forum at the Davos Annual Meeting 2017, p. 7.

[8] ITU, Facts and Figures 2016, third page. For national statistical data, see inputs received from States, available at www.ohchr.org/EN/Issues/Women/WRGS/Pages/BridgetheGenderDigital.aspx.

[9] The Economist Intelligence Unit, "The inclusive Internet index: bridging digital divides" (2017), pp. 3 and 13.

[10] Neuhaus, "Connecting the unconnected", p. 7.

[11] See World Wide Web Foundation, http://webfoundation.org/about/research/womens-rights-online-2015/. See further *Women's Rights Online: Translating Access into Empowerment* (2015), pp. 13 and 24.

[12] GSMA, *Mobile Gender Gap Report 2016*, pp. 167–179. See also International Committee of the Red Cross, The Engine Room and Block Party, *Humanitarian Futures for Messaging Apps* (2017), p. 26.

[13] GSMA, *Connected Women 2015: Bridging the Gender Gap — Mobile Access and Usage in Low- and Middle-Income Countries*, p. 6. See also inputs from the Signal Program on Human Security and Technology, Harvard Humanitarian Initiative on the gender divide in mobile telephone ownership among refugees in Greece.

[14] GSMA, *Connected Women 2015*, pp. 20–30.

domain is limited. Consequently, there is a clear need for all States to systematically collect sex- and gender-disaggregated data to expose differences in ICT access and use and to support policymakers in finding the most appropriate responses to closing the gender digital divide.[15]

C. Drivers of the gender digital divide

9. The gender digital divide is a multidimensional phenomenon that includes issues regarding access to equipment (hardware), solutions (software or applications), connectivity and data, as well as the digital skills, knowledge and opportunities necessary to develop, benefit from and make meaningful and strategic use of ICTs.

10. Barriers faced by women in accessing ICTs, and that may limit their participation in digital life, are exacerbated by offline inequalities. Women already discriminated against or marginalized because of their sex and gender, in addition to other factors, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity,[16] are least likely to access, use and benefit from ICTs. Furthermore, they may face obstacles in accessing and using ICTs in a way that is meaningful, relevant and beneficial to them in their daily lives.[17]

11. Factors influencing, preventing or inhibiting women's access and use of ICTs may include:[18]

(a) Availability: for example, the status and degree of infrastructural roll-out, barriers to broadband access and limitations on women accessing public Internet places;

(b) Affordability: with more limited financial resources, women are disproportionately affected;[19]

(c) Sociocultural barriers: for example, time, mobility and gender roles, norms and stereotypes;

(d) Legislation, policies or practices: for example, regulation of the licensing of ICTs, subscription services, discriminatory policies and practices that affect women;

(e) Education, capacity and skills development: for example, illiteracy and a lack of digital skills and confidence;

(f) Privacy, security, trust and safety risks: for example, online harassment and violence against women;

(g) Relevant content, applications and services: for example, a lack of content that speaks to women's diverse realities or that has perceived benefit, or censorship or restriction of gender-related content;[20]

(h) ICT development, policy and governance: for example, the absence of women in technology-related careers, in ICT leadership positions and in key Internet governance decision-making structures.[21]

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[15] ITU, *Measuring the Information Society*, p. 203. See also Broadband Commission Working Group on the Digital Gender Divide, *Recommendations for Action: Bridging the Gender Gap in Internet and Broadband Access and Use* (2017), p. 18.

[16] Committee on the Elimination of Discrimination against Women, general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, para. 18.

[17] Paul DiMaggio and others, "From unequal access to differential use: a literature review and agenda for research on digital inequality" (2001).

[18] For a fuller exploration of some of these factors, see World Wide Web Foundation, *Women's Rights Online*, pp. 18-23.

[19] See, for example, Alliance for Affordable Internet, *Affordability Report 2015/16*, pp. 32-33.

[20] See A/HRC/17/27, paras. 29-32 and ITU, *Measuring the Information Society*, chap. 6.

[21] See A/HRC/32/38, para. 80. See also Avri Doria, "Internet governance and gender issues", in Association for Progressive Communications, *Critically Absent: Women's Rights in Internet Governance* (2012).

III. A human rights framework for bridging the gender digital divide

A. Applying a human rights-based approach

12. In its resolution 32/13, the Human Rights Council affirmed the importance of applying a comprehensive human rights-based approach in providing and expanding access to the Internet, while calling on all States to make efforts to bridge the many forms of digital divides, and in particular the gender digital divide. The Council called on States to enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of all women and girls. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has stated that, without Internet access, which facilitates economic development and the enjoyment of a range of human rights, marginalized groups may remain trapped in a disadvantaged situation, thereby perpetuating inequality;[22] such groups may include women.

13. A systematic approach to embedding human rights in efforts to tackle the gender digital divide requires addressing the full range of women's human rights that are affected by ICTs. It should also take into account the underlying context in which women live, which involves multiple and intersecting barriers to the exercise of their human rights. Inhibitors to ICT access and use by women should be addressed as part of the State's obligation to respect, protect and fulfil all human rights. This includes establishing and maintaining an enabling online environment that is safe and conducive to engagement by all, without discrimination and with special attention to the needs of groups facing systemic inequalities, in particular women within these groups. As affirmed in successive Human Rights Council resolutions and General Assembly resolution 71/199, the same rights that people have offline must also be protected online.[23]

14. A human rights-based approach applies human rights norms and standards to relevant policies and programmes. This includes establishing and maintaining key principles such as accountability, equality and non-discrimination, participation, transparency, empowerment and sustainability.[24] Additionally, an Internet governance structure premised on human rights should ensure that individuals can challenge violations of their rights and that remedies are accessible and effective.[25]

15. States have an obligation to protect persons within their jurisdiction from undue interference with their human rights by third parties,[26] including business enterprises. Business enterprises, including those active in the ICT sector, have a responsibility to respect human rights. In accordance with the Guiding Principles on Business and Human Rights, enterprises should avoid infringing on human rights and should identify, prevent, mitigate and account for any adverse impact on human rights that they cause, contribute to or are directly linked to.[27]

16. The Sustainable Development Goals offer an important tool for reinforcing the existing human rights obligations of States to bridge the gender digital divide.[28] States have committed to strive for universal and affordable access to the Internet in least developed countries by 2020 (target 9 (c) of the Goals), as well as to ensure that women and men have equal access to basic services, including new technology, by 2030 (target 1.4). They have also pledged to enhance the use of enabling technology, in particular ICTs, to promote the

[22] See A/HRC/17/27, para. 62.

[23] See Council resolutions 20/8 and 26/13.

[24] See A/HRC/14/39, para. 32, and OHCHR, *A Human Rights-Based Approach to Data: Leaving No One Behind in the 2030 Development Agenda* (2016).

[25] See A/HRC/27/37, paras. 40-41.

[26] See Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 8.

[27] A/HRC/17/31, annex. See also Human Rights Council resolution 17/4.

[28] See General Assembly resolution 70/1, para. 15. See also ITU, Action Plan to Close the Digital Gender Gap (2015), second page.

empowerment of women (target 5 (b)).[16] Furthermore, expanding equal access to ICTs is supportive of many other Sustainable Development Goals, including those related to education, health, jobs and economic growth, innovation and infrastructure, and sustainable cities and communities.

B. Human rights implications of the gender digital divide

17. The gender digital divide is both a consequence and cause of violations of women's human rights. It is a consequence, in that disparities in ICT access and use reflect discrimination faced by women in society, be it based on location, economic status, age, gender, racial or ethnic origin, social and cultural norms, education or other factors. The gender digital divide is also a cause of violations of women's human rights: women without meaningful ICT access are less equipped to exercise their human rights and to participate in public life, the economy and society.[17] The role of Internet access in the enjoyment of human rights has been stressed in numerous reports by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.[18] At the same time, when women access or use ICTs, they may be exposed to potential violations of human rights, which in turn may deter them from using ICTs and effectively limit their access, serving to exacerbate the gender digital divide.

Right to privacy

18. The General Assembly, the United Nations High Commissioner for Human Rights and several special rapporteurs have recognized that privacy is a prerequisite for the full exercise of other rights, notably the right to freedom of opinion and expression.[19] Women's right to privacy in the context of equal access to ICTs implies the ability to benefit from encryption, anonymity or the use of pseudonyms on social media in order to minimize the risk of interference with privacy, which is especially pertinent for women human rights defenders and women trying to obtain information otherwise considered taboo in their societies.[20]

19. At the same time, the use of ICTs could result in arbitrary or unlawful interference in women's privacy, for example through surveillance and monitoring of women's correspondence and activities, or in targeted attacks on women's privacy through the publication of personal data and information on the Internet ("doxing"). Big data[21] also poses particular challenges to women's right to privacy, for example during the collection, storage, sharing and repurposing of large sets of data, which may involve the potential for re-identification, de-anonymization and aggregation of information.[22] Of particular concern is the potential danger posed to the privacy of marginalized women when big data is used for development or humanitarian purposes. While big data may carry benefits for development initiatives, it also carries serious risks, which are often ignored.[23]

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[16] The global indicator framework agreed by the Statistical Commission in 2016 includes "Proportion of individuals who own a mobile telephone, by sex" to monitor Sustainable Development Goal 5.

[17] See, in this connection, A/HRC/30/26, para. 13 and A/HRC/17/27, paras. 60-66. See also Association for Progressive Communications, "How technology issues impact women's rights: 10 points on Section J" (2015).

[18] See A/HRC/17/27, paras. 60-66; A/HRC/29/32; A/HRC/32/38; A/HRC/14/23, paras. 111-112.

[19] General Assembly resolution 68/167; A/HRC/13/37; A/HRC/29/32. See also Human Rights Council resolution 20/8.

[20] See A/HRC/23/40 and Corr.1, para. 23.

[21] See Global Pulse, *Integrating Big Data into the Monitoring and Evaluation of Development Programmes*, pp. 34-35.

[22] Nicole Shephard, "Big data and sexual surveillance", Association for Progressive Communications issue paper (2016).

[23] See, generally, Global Pulse (2016), "Big data for development and humanitarian action: towards responsible governance — Global Pulse privacy advisory group meetings 2015-2016" (2016).

Rights to freedom of opinion and expression and freedom of peaceful assembly and of association

20. The Internet is a key means by which individuals can exercise the right to freedom of opinion and expression.[37] This right includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers and through any media.[38] In particular, the Internet has become crucial for the provision of, and access to, information and in the formation of political communities and associated questions of participation.[39] For example, the Special Rapporteur in the field of cultural rights stated that ICTs, including the Internet, were especially important for accessing information, establishing and developing contacts with persons with similar views beyond primary communities, expressing oneself and contributing one's own knowledge and ideas.[40]

21. Further, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has noted that States have a positive obligation to promote or to facilitate the enjoyment of the right to freedom of expression and the means necessary to exercise this right, including the Internet. States should adopt effective and concrete policies and strategies — developed in consultation with individuals from all segments of society, including the private sector as well as relevant government ministries — to make the Internet widely available, accessible and affordable to all.[41]

22. Several aspects of the exercise of the right to freedom of opinion and expression online are of particular importance for the realization of women's human rights. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has noted that when women are denied the full exercise of this right, they are also limited in the exercise of other fundamental rights, such as the rights to development, education, health, political participation and a life free from violence.[42] The Internet may be a significant and, at times, even the only way for women to access information and express their views on issues that concern them and their life choices, which they may otherwise not be able to, owing to, among other things, harmful gender stereotypes, social norms and taboos. This may include information on gender equality and women's rights and on sexual and reproductive health and rights.

23. Women activists, including women human rights defenders, increasingly rely on ICTs to advocate, communicate, mobilize, protect, access information and gain visibility. Yet, at the same time, ICTs may broaden the kinds of surveillance, censorship and harassment to which they may be subjected.[43] The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has noted a disproportionate impact of online surveillance on the freedom of expression of a range of groups, such as lesbian, gay, bisexual and transgender individuals, civil society, human rights defenders, journalists and victims of violence and abuse; women within those groups face gender-specific risks and threats.[44] The Special Rapporteur on the situation of human rights defenders observed that women human rights defenders had been subjected to new online forms of violence, such as threats, including death threats, and that such threats could be delivered via telephones, text messages or e-mails.[45] The Special Rapporteur also drew attention to cases in which human rights defenders had been charged with defamation and, in some cases, blasphemy, because they had published online articles, blog entries or tweets.[46] Further, the Special Rapporteur has emphasized the need for gender-sensitive protection measures and stated that the physical safety of human rights defenders should be

[37] See A/HRC/17/27, para. 20.

[38] International Covenant on Civil and Political Rights, art. 19 (2). See also Human Rights Committee general comment No. 34 (2011) on the freedoms of opinion and expression, para. 18.

[39] See A/HRC/17/27, paras. 2 and 19; A/HRC/23/50, para. 15.

[40] See A/67/287, para. 32.

[41] See A/HRC/17/27, para. 66.

[42] See A/HRC/14/23, para. 112; see also A/HRC/17/27, para. 62.

[43] Front Line Defenders, "Living under digital surveillance: human rights defender perceptions and experiences" (2016).

[44] See A/HRC/32/38, para. 57.

[45] See A/HRC/16/44 and Corr.1, para. 56.

[46] See A/67/292, para. 56.

interlinked and integrated into their digital security.[47] In addition, as many women human rights defenders still struggle to gain access to online spaces, the need to share devices, use cybercafes and rely on legacy or "dumb" mobile telephones may impair their right to freedom of opinion and expression and further contribute to their digital insecurity.[48]

24. The rights to freedom of peaceful assembly and of association are crucial for enabling the exercise of many other civil, cultural, economic, political and social rights. States have been called on to recognize that the rights to freedom of peaceful assembly and of association can be exercised through new technologies, including through the Internet.[49] The Internet allows women activists to connect and exchange strategies, including across borders, and offers a space for organizing, although it may also render women vulnerable to digital threats.

Right to work and to the enjoyment of just and favourable conditions of work

25. The right to work is essential for realizing other human rights.[50] However, women are at risk of losing out in the workplace due to a lack of digital skills. They are underrepresented in many ICT companies and ICT-related roles, with some statistics showing as few as 23 per cent female employees, and the percentage is even lower for women in leadership positions or technical roles.[51] This is likely to perpetuate a low participation of women in digitization processes.[52] Information received describes how some States, business enterprises and others are adopting proactive measures to bridge the gender gap in the digital labour market by promoting education, training and employment opportunities for women in science and technology-related areas.[53]

26. ICTs can help to improve women's working conditions by reducing labour time and facilitating flexible working arrangements.[54] They can also assist women workers, especially household, domestic or migrant workers, in claiming their labour rights by providing access to online information, as well as offer opportunities to organize online to improve laws, wages and working conditions and report abuses.[55] Technological innovations are also being leveraged to help track and interrupt human trafficking and forced labour in supply chains.[56] Furthermore, evidence shows that migrant workers who are isolated from technology and social networks are more vulnerable to human trafficking and exploitation.[57]

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[47] See A/HRC/31/55, paras. 39, 44 and 48.

[48] See Association for Progressive Communications/Connect Your Rights!, "What are the digital security concerns and threats facing women human rights defenders?" (2012). See also Association for Women's Rights in Development, "Our right to safety: women human rights defenders' holistic approach to protection", p. 19.

[49] See A/HRC/20/27, para. 84 (k).

[50] See Committee on Economic, Social and Cultural Rights, general comment No. 18 (2005) on the right to work, para. 1.

[51] See A/HRC/26/39, para. 58. See also World Economic Forum, *The Industry Gender Gap: Women and Work in the Fourth Industrial Revolution* (2016) and European Commission, *Women Active in the ICT Sector* (2013).

[52] Input from Sweden, p. 3.

[53] See inputs received for the report.

[54] See, for example, Committee on the Elimination of Discrimination against Women, general recommendation No. 34 (2016) on the rights of rural women, paras. 73-74.

[55] Leith Dunn and Hopeton Dunn, "Women's rights, gender and ICTs: empowering household workers in Jamaica", in Association for Progressive Communications and Humanist Institute for Cooperation with Developing Countries, *Global Information Society Watch* (2013). Available from www.giswatch.org/sites/default/files/jamaica_gisw13.pdf.

[56] Samir Goswami, "Technology to address human trafficking & forced labour in supply chains" (Issara Institute, 2016). Available from www.projectissara.org/publications.

[57] Mark Latonero and others, *Technology and Labor Trafficking in a Network Society* (University of Southern California Annenberg, Center for Communication Leadership & Policy, 2015). In the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016, it is stated that the European Commission will use the Internet and social networks to target awareness-raising for key groups of concern, including women and children at risk and domestic workers.

Right to health

27. The right to health requires equal access for women and men to health-care services, as well as ensured access to services required only by women.[58] Sexual and reproductive health constitutes a key aspect of women's right to health and is related to other human rights, including the rights to life, liberty and security of person and freedom from torture, as well as the rights to privacy, education and the prohibition of discrimination.[59] The right to health includes the ability for women to make decisions about their health, such as deciding freely and responsibly on the number and spacing of their children, and to have access to the information, education and means to exercise this right.[60] ICTs can offer access to websites and resources that enable women to make more informed decisions about their sexual and reproductive health, while respecting confidentiality and eliminating stigma-related barriers.[61]

28. The adoption of e-health and m-health (mobile) can lead to more cost-effective and inclusive access to health care, while data analytics and artificial intelligence can help identify appropriate treatments and facilitate early diagnosis and intervention.[62] There is thus significant potential to harness ICTs for women's health. The development of e-health and m-health pose some important challenges, however, including information censorship, misinformation, the protection of data privacy and the limits of one-way health information.[63] Furthermore, much of the health-related information available online focuses on motherhood and childbirth, with less attention paid to topics such as safe abortion and contraception within the framework of sexual and reproductive health and rights.[64]

Right to education and to participate in cultural life

29. ICTs can provide increased access to affordable and inclusive educational opportunities for women, with the ability of digital devices to multiply learning pathways and diversify learning approaches. The Committee on the Rights of the Child has described how the Internet can provide education for children through mobile school programmes.[65] The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has also highlighted some of the educational advantages derived from Internet usage and how those can directly contribute to human capital.[66] The Special Rapporteur on the right to education has noted, however, that while the provision of education through digital technology can have important benefits, special attention must be paid to questions of skills and access, including for women, to avoid contributing to gender disparities.[67]

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[58] See Convention on the Elimination of All Forms of Discrimination against Women, art. 12; Committee on the Elimination of Discrimination against Women, general recommendation No. 24 (1999) on women and health; Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health.

[59] Committee on Economic, Social and Cultural Rights, general comment No. 22 (2016) on the right to sexual and reproductive health; see also A/61/338.

[60] See Convention on the Elimination of All Forms of Discrimination against Women, arts. 10 and 16.

[61] Examples include the Mobile Alliance for Maternal Action (see www.mobilemamaalliance.org/), TriGivia (see http://esaro.unfpa.org/news/creating-youth-app-sexual-health#sthash.zSNKrA5G.dpuf), Text4baby (see www.text4baby.org/), Team GetIN (see www.unfpa.org/news/new-mobile-app-brings-digital-revolution-adolescent-maternal-care-uganda#sthash.KQ0U8Adn.dpuf) and the Ibis Reproductive Health website (www.medicationabortion.com). See also input from Maya Apa.

[62] World Health Organization and ITU, *E-Health and Innovation in Women's and Children's Health: A Baseline Review* (2014).

[63] Association for Progressive Communications, "Internet governance issues on sexuality and women's rights" (2010).

[64] L. Waldman and M. Stevens, "Sexual and reproductive health rights and information and communications technologies: a policy review and case study from South Africa", Institute of Development Studies Evidence Report No. 113 (2015).

[65] General comment No. 11 (2009) on indigenous children and their rights under the Convention, para. 61.

[66] See A/69/335, para. 66; A/HRC/17/27, para. 62.

[67] See A/HRC/32/37, paras. 40-41.

30. With the Internet emerging as a critical platform for scientific and cultural flows and exchanges, freedom of access to the Internet and maintaining its open architecture are important for upholding the right to participate in cultural life and to enjoy the benefits of scientific progress and its applications.[68] The Internet can facilitate women's access to, and participation in, science and culture, providing opportunities for women to express themselves and to present alternative narratives and meanings and making it easier for them to freely engage with people, ideas and events across cultural and national boundaries. Consequently, lack of access to online spaces by women can affect their right to participate in cultural life on an equal basis, and bridging the digital divide is necessary to fully realize this right, as noted by the Special Rapporteur in the field of cultural rights.[69]

Rights of women with disabilities

31. Improved access to ICTs can help persons with disabilities to live more autonomously and independently and enable and accelerate their social, economic and political inclusion. It can facilitate access to education, information, independent methods of communication, health services and employment opportunities.[70] However, persons with disabilities, and particularly women with disabilities, are significantly less likely to have access to the Internet and ICTs.

32. Under articles 9 and 21 of the Convention on the Rights of Persons with Disabilities, States parties are required to take appropriate measures to ensure that persons with disabilities can access ICTs and exercise the right to freedom of expression and opinion, and access to information, on an equal basis with others and through all forms of communication of their choice.[71] States parties are also to urge providers of information and services through the Internet, including private entities, to make their services accessible to persons with disabilities. The Committee on the Rights of Persons with Disabilities has stated that the lack of consideration given to gender and/or disability aspects in policies relating to, among other things, information and communications technologies and systems prevents women with disabilities from living independently and participating fully in all areas of life on an equal basis with others.[72] The Committee has further expressed concern that if women with disabilities are subjected to violence, exploitation or abuse, particularly in situations of risk and humanitarian emergencies, information and communication helplines and hotlines may not be accessible to them due to their lack of access to ICTs.[73]

Rights of the child, particularly girls

33. The Committee on the Rights of the Child has highlighted the importance of digital technology in children's lives and exhorted States parties to protect and promote the rights of the child in this regard, without distinction between boys and girls.[74] The Committee held a day of general discussion in 2014 on digital media and children's rights. While enumerating some of the positive opportunities presented by ICTs for children's empowerment and engagement, participants drew attention to the digital divide, especially for children in marginalized and vulnerable situations, and highlighted that children, particularly girls, faced new forms of human rights abuses enabled by ICTs, including sexual exploitation and the distribution of child sex abuse images. The Committee recommended that States should recognize the importance of access to, and use of, digital media and ICTs for children and their potential to promote all children's rights and should adopt and effectively implement comprehensive human rights-based laws and policies that incorporate children's access to digital media and ICTs and ensure the full protection under

[68] See A/HRC/20/26, para. 36; A/HRC/23/34, para. 39; International Covenant on Economic, Social and Cultural Rights, article 15 (1) (a) and (b).

[69] See A/HRC/17/38/Add.1, para. 61; see also A/67/287, paras. 31-32.

[70] Broadband Commission for Digital Development and others, joint report, *The ICT Opportunity for a Disability-Inclusive Development Framework* (2013).

[71] See also Committee on the Rights of Persons with Disabilities, general comment No. 2 (2014) on accessibility.

[72] General comment No. 3 (2016) on women and girls with disabilities, para. 48.

[73] Ibid., para. 50.

[74] General comment No. 20 (2016) on the implementation of the rights of the child during adolescence.

the Convention on the Rights of the Child and the Optional Protocols thereto with regard to the use of digital media and ICTs.[75]

C. Online violence against women

34. While the use of ICTs has contributed to the empowerment of women and to a fuller realization of their human rights, it has also facilitated the development of online violence against women.[76] In article 1 of the Declaration on the Elimination of Violence against Women, violence against women is defined as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts.[77] The General Assembly acknowledged in its resolution 68/181 that information-technology-related violations, abuses and violence against women were a growing concern and could be a manifestation of systemic gender-based discrimination, requiring effective responses compliant with human rights.

35. Online violence against women encompasses acts of gender-based violence that are committed, facilitated or aggravated by the use of ICTs, including online threats and harassment and gross and demeaning breaches of privacy, such as "revenge pornography".[78] Online violence has risen sharply over the past few years,[79] and can result in women limiting their participation on online platforms.[80]

36. Specific groups of women, in particular young women,[81] women belonging to ethnic minorities and indigenous women,[82] lesbian, bisexual and transgender women,[83] women with disabilities and women from marginalized groups may be at greater risk and may experience particularly severe forms of online violence. Women human rights defenders, journalists,[84] bloggers[85] and those critiquing sexist media practices online may also face particular harassment or threats online, such as interference with Internet services, computer confiscation, virus and spyware attacks and online defamation campaigns aimed at discrediting them or inciting other abuses against them.[86]

37. States have obligations to combat online violence against women while safeguarding the freedom of opinion and expression and the realization of other rights, such as the right to access information about sexual and reproductive health and rights.[87] Business enterprises have similar responsibilities. Actions to be taken to protect women against acts of online violence should be preventive, such as education campaigns or the provision of technical features enabling users to block content,[88] and reactive, such as the urgent

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[75] See the report of the Committee on the Rights of the Child on the day of general discussion, paras. 85-86, available at www.ohchr.org/Documents/HRBodies/CRC/Discussions/2014/DGD_report.pdf. See also Human Rights Council resolution 31/7; A/HRC/31/58, para. 54; A/69/335, paras. 65-78.

[76] See A/HRC/32/42 and Corr.1, para. 70.

[77] See also Committee on the Elimination of Discrimination against Women, general recommendation No. 19 (1992) on violence against women, para. 6.

[78] See A/HRC/23/50, para. 66.

[79] See www.pewinternet.org/2014/10/22/online-harassment/.

[80] "UN experts urge States and companies to address online gender-based abuse but warn against censorship", press release dated 8 March 2017. See also Software Freedom Law Centre, India (2016), "Online harassment: a form of censorship".

[81] See A/HRC/29/27/Add.2, para. 23.

[82] Jane Bailey and Sara Shayan, "Missing and murdered indigenous women crisis: technological dimensions", *Canadian Journal of Women and the Law*, vol. 28, No. 2 (2016).

[83] Witness Media Lab, *Capturing Hate: Eyewitness Videos Provide New Source of Data on Prevalence of Transphobic Violence* (2016).

[84] A 2014 study of Twitter in the United Kingdom found that female journalists were one of the categories most likely to suffer attacks (see www.demos.co.uk/files/Demos_twittercelebrities_data.xlsx).

[85] OSCE, *New Challenges to Freedom of Expression: Countering Online Abuse of Female Journalists* (2016), p. 5.

[86] For example, the 2015 online attacks targeting #TakeBackTheTech and #ImagineAFeministInternet hashtags (see www.apc.org/en/pubs/take-action-takebackthetech-and-imagineafeministin).

[87] See, for example, E/2013/27-E/CN.6/2013/11, para. 34 (ww).

[88] See A/HRC/32/38, para. 52.

removal of unlawful content, investigation and action against perpetrators, and the provision of redress and reparation to victims. Any such measures should comply with international human rights norms and standards; in particular, no action may amount to undue restrictions on freedom of expression.[89]

38. Inputs received from some States for the report outlined measures implemented to combat online violence against women, including education, legislation, preventive actions, reporting mechanisms and various other initiatives.[90] A number of States have examined how they can use or clarify existing laws to address online violence against women, while others have adopted laws specifically addressing online violence, often in a gender-neutral manner.[91] However, reports indicate that in many States, law enforcement agencies and courts are failing to take appropriate action in situations of online violence against women, or are using such laws as a pretext to restrict freedom of expression.[92]

39. Business enterprises have also begun to address this issue, for example by developing tools that allow users to block specific individuals, safeguard their privacy or tailor their interactions to protect themselves against abusive behaviour.[93] It is important that such tools comply with the requirements set out in article 19 (3) of the International Covenant on Civil and Political Rights regarding permissible restrictions on freedom of expression. Inputs to the report provided examples of community-led initiatives, including online victim support platforms and organizations offering digital security guidance and counselling.[94] Other examples of ICTs designed to prevent offline violence against women include mobile device-based safety applications, such as "panic buttons".[95] Other technology-based tools in this area include "data escrows" (third party data trusts) to facilitate confidential reporting of sexual assault.[96]

D. Emerging issues: data-driven technologies

40. The advent of big data and artificial intelligence may have an impact on women's rights and on the gender digital divide. Data-driven technologies may provide new opportunities to solve societal problems and perform a range of complex tasks in everyday life, but there is also a risk of increasing disparities for those who do not have access, and of reinforcing, or even amplifying, gender inequalities due to data gaps and bias. For example, while big data analytics may offer possibilities to make gender-based discrimination more visible and to quantify women's political, economic, social and health

[89] In accordance with article 19 (3) of the International Covenant on Civil and Political Rights, any restriction on the freedom of expression, to be legitimate, must be provided by law and necessary for the respect of the rights or reputations of others or for the protection of national security or of public order, or of public health or morals. Any restriction must be sufficiently precise to provide individuals with adequate guidance and publicly accessible, and must not confer upon authorities unfettered discretion for the restriction (Human Rights Committee, general comment No. 34, para. 25).

[90] See also GenderIT (2014), "End Violence Research Findings"; DLA-Piper, "Online harassment: a comparative policy analysis for Hollaback" (2016); *Internet Governance Forum 2015: Best Practice Forum on Online Abuse and Gender-Based Violence against Women* (2015).

[91] The European Agency for Fundamental Rights has raised the issue of whether current legislation on violence against women is well-suited to fight cyberstalking and cyberharassment (see *Violence against Women: An EU-wide Survey* (2014)).

[92] See Association for Progressive Communications, "From impunity to justice: domestic legal remedies for cases of technology-related violence against women" (2015); World Wide Web Foundation, *Web Index* (2014), chap. 4.2; Association for Progressive Communications, "Technology-related violence against women" (2015), pp. 3-4.

[93] See input by Twitter #PositionOfStrength programme. In February 2017, Google released a machine learning tool designed to flag "toxic comments" (see www.perspectiveapi.com/).

[94] See, for example, inputs by Digital Rights Foundation, Access Now and Hollaback! See also www.takebackthetech.net and https://tacticaltech.org/projects/security-box.

[95] See the Centre for Internet and Society and the Bachchao Project, "Evaluating safety buttons on mobile devices: technological interventions, personal safety, and women's agency" (2017). Amnesty International has developed a basic panic button application in an attempt to address privacy and security concerns (see www.panicbutton.io).

[96] See www.projectcallisto.org.

status,[97] there is also a risk that it may not pick up information about the diverse experiences of women, owing to underrepresentation or exclusion of particular groups online and a lack of reporting.[98]

41. Another widely shared concern is that of algorithmic discrimination and bias. Studies indicate that as the use of artificial intelligence systems becomes more pervasive, there may be disproportionate and disparate impacts on certain groups facing systemic inequalities, including women within those groups.[99] For example, researchers discovered evidence of gender-based discrimination in the targeting of job-related advertisements online, as well as underrepresentation of women in Internet search results for certain professions.[100] Further efforts should be focused on ensuring that data inputs are inclusive and accurate and that the operation of artificial intelligence is consistent with human rights; automated decision-making processes should be transparent and accountable for the analyses and decisions they deliver.[101]

42. A further emerging area is that of digital identity. In the 2030 Agenda for Sustainable Development, the role of robust identification systems and their importance to development was highlighted, specifically in target 16.9 of the Sustainable Development Goals, and such systems are key enablers in achieving many of the Goals.[102] However, nearly one fifth of the world's population lacks any form of officially recognized identification.[103] Women in developing countries are disproportionally affected, as they may face higher economic and social barriers to obtaining official identification. This lack of identification can prevent those women concerned from accessing a variety of rights, such as social protection, education and health care, and from exercising the right to vote. It can also prevent them from accessing economic opportunities, jobs and credit. New technology allows digital identification systems to establish identity for those who lack traditional paper documents. For example, an important impediment in the area of women's property and inheritance rights is the lack of proper identity documentation by which to establish a legal basis for claims.[104] Technologies such as blockchain can provide an authentication solution in the form of a unique, digital identifier, thereby helping to protect women's equal rights to land and property.[105] Digital identity and digital currencies also present an opportunity to increase financial inclusion, helping to address the situation whereby approximately 50 per cent of women around the world do not have access to

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[97] Data2X, "Big data and the well-being of women and girls: applications on the social science frontier" (2017). See also input from the Human Rights, Big Data and Technology Project, para. 17.

[98] Elaine Edwards, "Writer urges users of 'big data' to consider impact on women", *Irish Times*, 30 March 2017.

[99] Solon Barocas and Andrew D. Selbst, "Big data's disparate impact", *California Law Review*, vol. 104 (2016); Danah Boyd, Karen Levy and Alice Marwick, "The networked nature of algorithmic discrimination", in *Data and Discrimination: Collected Essays*, Seeta Peña Gangadharan, Virginia Eubanks and Solon Barocas, eds. (2014).

[100] See input received by the group of researchers at Carnegie Mellon University and the International Computer Science Institute. See also Will Knight, "How to fix Silicon Valley's sexist algorithms", *MIT Technology Review*, 23 November 2016.

[101] Joshua A. Kroll and others, "Accountable algorithms", *University of Pennsylvania Law Review*, vol. 165 (2017), p. 633; Corinne Cath and others, "Artificial intelligence and the 'good society': the US, EU and UK approach" (2016).

[102] The United Nations has created a task force focused on providing legal identity to all by 2020, which includes blockchain entrepreneurs, policymakers and non-governmental organizations (see id2020.org). See also Mariana Dahan and Alan Gelb, "The role of identification in the post-2015 development agenda" (Center for Global Development, 2015).

[103] World Bank, "Identification for development: strategic framework" (2016), p. 4.

[104] OHCHR and United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), *Realizing Women's Rights to Land and Other Productive Resources* (2013), p. 38.

[105] Lucia Hanmer and Mariana Dahan, "Identification for development: its potential for empowering women and girls" blog dated 9 November 2015, available at http://blogs.worldbank.org/voices/identification-development-its-potential-empowering-women-and-girls; Centre for International Governance Innovation proposal for the Group of 20 to harness blockchain technology for women's empowerment and sustainable development, available at www.cigionline.org/sites/default/files/documents/PB%20no.101.pdf.

financial services.[46] However, without access to ICTs, women may not have the opportunity to benefit from these potentially powerful technological tools.[47]

IV. Conclusions and recommendations

44. Important gender disparities in access to and use of ICTs persist and hinder women's exercise of their human rights. Furthermore, violations of women's human rights online can exacerbate the gender digital divide. Without a determined effort to remedy this situation, there is a significant risk that technology will widen gender inequalities in society.

45. Human rights should serve as the framework for bridging the gender digital divide. International human rights norms and principles, especially equality, non-discrimination, inclusion, participation and the provision of effective remedies, should guide any action taken in response to issues of access, use and misuse of ICTs. While interest in addressing the gender digital divide appears to be growing, there seems to be insufficient attention paid to framing it as a human rights issue.

46. Gender equality should be promoted in the design and implementation of ICTs and in the policy decisions and frameworks that regulate them. It is critical for all stakeholders to invest in creating an enabling and empowering ICT environment that serves the needs of women by respecting, protecting and promoting their human rights online. With regard to new and emerging data-driven technologies, there is now a critical window of opportunity to ensure that these technologies are human rights compliant and do not replicate or exacerbate existing patterns of discrimination against women.

Need for a human rights-based approach to bridging the gender digital divide

47. States and business enterprises should ensure that the development and deployment of ICTs, including new data-driven technologies, is guided and regulated by international human rights law, including principles of gender equality, in order to facilitate the realization of human rights for women and avoid any adverse human rights impacts, intentional or unintentional. The treatment and use of ICTs must fully reflect the principle that the same rights that people have offline must also be protected online. Further research and gender analysis is needed concerning the impacts of big data-driven technologies on women's human rights. Particular attention should be paid to the risk of an emerging data gender gap and potential data bias.

48. States and business enterprises should adopt proactive measures to ensure women's equal and meaningful participation online, including by addressing the underrepresentation of women in science, technology and engineering sectors, particularly in leadership positions.

49. Business enterprises in the ICT sector should embed gender equality and diversity as core values across organizational and employment policies.

50. Civil society organizations should play an active role in educating and supporting women in accessing, exercising and achieving their human rights online.

Access to information and communications technology and the necessary infrastructure

51. States should apply a comprehensive human rights-based approach in providing and expanding access to ICTs. They should adopt and implement ICT

[46] See Asli Demirguc-Kunt and others, "The Global Findex Database 2014: measuring financial inclusion around the world", World Bank Policy Research Working Paper No. 7255 (2015), p. 15.

[47] The Secretary-General's high-level panel on women's economic empowerment has called for law, policies and regulations to support digital inclusion while addressing safety, privacy and data protection concerns (see *Leave No One Behind: A Call to Action for Gender Equality and Women's Economic Empowerment* (2016), p. 69).

policies and strategies that include specific measures to gender considerations and address access to, affordability of and participation in ICTs for all women. Such policies should be developed in consultation with all sectors of society, including business enterprises and civil society, in particular women's organizations. ICT policies should also be linked to existing gender and development policies.

50. States should include ICT literacy skills in educational curricula for girls, and support similar learning modules outside of schools.

52. At the international level, States, in particular developed States, should honour their commitment, expressed, inter alia, in the Sustainable Development Goals, to facilitate technology transfer to developing States, and integrate programmes to facilitate women's access to ICTs in their development and assistance policies.

53. States should collect, analyse and track sex- and gender-disaggregated data on ICT access and usage in order to reach a better understanding of how digital inclusion can be achieved and how to develop informed policies.

54. States must ensure equitable access to online information and public services, taking into consideration the diversity of Internet users, as well as the ways people use the Internet. They should provide public access to ICT facilities for women and improve relevant and local online content. In view of current limitations to digital access, States should also make available alternative offline modes of access to public information and services.

55. Business enterprises should innovate to reduce the cost of ICT devices and services. They should consult and engage with women from diverse backgrounds, and include women in ICT design, development and production processes to improve the relevance of ICT services, content and applications.

56. Civil society participation, in particular that of women's organizations, should be ensured in national and international ICT policymaking processes. They should be actively involved in the process of developing ICT content relevant to women.

Combating online violence against women

57. A multi-pronged approach to combating online violence against women is required, including education and media campaigns, and working with all relevant parties. Online violence against women must be dealt with in the broader context of offline gender discrimination and violence.

58. Any measures to eliminate online violence against women must comply with international human rights law, including the criteria for permissible restrictions to freedom of expression provided under article 19 (3) of the International Covenant on Civil and Political Rights.

59. States and business enterprises should act to prevent and combat online violence against women. They should collect comprehensive data on the extent and nature of online violence against women and conduct further research to understand and address its underlying causes and how best to combat it. Civil society should monitor this data collection to ensure it is done in an effective and gender-sensitive manner.

60. States should enact adequate legislative measures and ensure appropriate responses to address the phenomenon of violence against women online, including through investigation of and action against perpetrators, the provision of redress and reparations to victims, and training on the application of international human rights norms and standards for law enforcement and the judiciary.

61. When involved in content moderation, business enterprises, including Internet intermediaries, should put in place clear, transparent and proportionate procedures, respecting human rights, in particular women's rights, and the rights to privacy and to freedom of opinion and expression. Relevant staff, both female and male, should be trained accordingly. Business enterprises should ensure that information about their terms of service and how these are enforced is adequate, understandable and easily available to all users. They should provide information about best practices for online

safety, and consider and establish specific procedures to enable users to report concerns, abuse and illegal content.

62. Civil society should play a role in improving digital literacy and in increasing awareness of the threats that prevent women from accessing and using ICTs and how these can be addressed and reduced.